Pages 4155–4229

FEDERAL REGISTER

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Contents

(*Continued on next page*)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

6 CFR

306 4157
371 4157

7 CFR

922 4159
PROPOSED RULES:
51 4183
936 4184
937 4184
1030 4184

14 CFR

600 (2 documents) 4160
601 (2 documents) 4160
602 4160
PROPOSED RULES:
60 4202
601 4204
608 4204

16 CFR

PROPOSED RULES:
303 4205

21 CFR

121 4161
146 4161
PROPOSED RULES:
120 (3 documents) 4201
121 (3 documents) 4201

23 CFR

1 4162

26 (1954) CFR

148 4166
PROPOSED RULES:
172 4182

32 CFR

590 4167
591 4167

32 CFR—Continued

592 4167
594 4167
595 4167
596 4167
599 4167
600 4167
601 4167
602 4167
605 4167
606 4167
1701 (2 documents) 4179, 4180

33 CFR

202 4180

39 CFR

168 4180

46 CFR

171 4181

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Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 426.1]

PART 306—REAL PROPERTY INSURANCE

Use of Loss Payments From Insurance

Paragraphs (b) and (d) of § 306.5, Title 6, Code of Federal Regulations (21 F.R. 7511) are revised to prescribe the purposes for which loss payments from insurance may be used and to read as follows:

§ 306.5 Losses.

* * * * *

(b) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in the borrower's supervised bank account, except:

(i) When the amount of the loss is $500 or less and the borrower will use the funds for repairing or replacing the building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) Where the buildings are not to be repaired or replaced, and other suitable buildings are not to be erected, the insurance funds will be applied as an extra payment to the borrower's real estate loan account unless authorized by the National Office for other disposition in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Part 372 of this chapter.

(iii) Where the records show that the real estate indebtedness has been paid in full, the loss draft will not be endorsed but will be returned to the company or agent, accompanied by a statement that the borrower's real estate indebtedness has been satisfied.

* * * * *

(d) *Repairs and replacements.* When any loss payments have been deposited in the borrower's supervised bank account, all repairs or replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds. Any balance remaining from such loss proceeds after all repairs and replacements, and other authorized disbursements, have been made will be applied as an extra payment on the borrower's real estate loan account unless authorized by the National Office for other disposition in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Part 372 of this chapter.

(Sec. 41, 50 Stat. 528, as amended, sec. 510, 63 Stat. 437, sec. 10, 68 Stat. 735; 7 U.S.C. 1015, 42 U.S.C. 1480, 16 U.S.C. 590x-3; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: May 4, 1960.

H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 60-4225; Filed, May 10, 1960; 8:48 a.m.]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FHA Instruction 462.1]

PART 371—CHATTEL SECURITY

Subpart A—Servicing

1. Section 371.1 in Title 6, Code of Federal Regulations (24 F.R. 1675) is revised to delete reference to loans coded 13F, as payments in full on such loans are now processed in accordance with the provisions of Part 366 of this chapter. The revised § 371.1 reads as follows:

§ 371.1 General.

This subpart covers the servicing of crop and chattel security for Farmers Home Administration loans, except as otherwise provided in Subpart C of this part with respect to Special Livestock loans. Sections 371.12 (a), (b), and (c) and 371.14 also apply to real estate security instruments securing Operating, Emergency, Special Livestock, and other production type loans and direct Water Facilities loans coded J. This subpart does not apply to the servicing of Soil and Water Conservation loans made to associations or loans made to other cooperative associations. After accounts have been approved for liquidation, security property will be disposed of and the proceeds will be used and accounted for in accordance with the provisions of Subpart B of this part. Borrowers must account to the Government for all property mortgaged to secure Farmers Home Administration loans.

§ 371.2 [Amendment]

2. Paragraph (b) of § 371.2 in Title 6, Code of Federal Regulations (23 F.R. 4305) is revised to prescribe the use of the new mortgage form for real estate security and to read as follows:

(b) *Real estate.* In servicing Operating loan cases, liens on real estate including real estate serving as security for any Farmers Home Administration loan may be taken upon approval of the State Director when (1) the borrower has a substantial equity in the real estate to be mortgaged, (2) the taking of such security is necessary to protect the interest of the Government, (3) chattel security is not adequate, and (4) the financial condition of the borrower is unfavorable, considering the amounts owed the Farmers Home Administration and other creditors. Form FHA-127.—, "Real Estate Mortgage," or other form approved by the National Office, will be used for this purpose. Borrowers will be encouraged to insure improvements on real property taken as security for Farmers Home Administration chattel indebtedness in reasonable amounts and against such hazards as are customary in the area. When insurance is necessary, it should be obtained in accordance with the provisions of Part 306 of this chapter.

3. The introductory statement and paragraph (b) of § 371.5 in Title 6, Code of Federal Regulations (23 F.R. 4307) are revised to permit the release of normal farm income security for all Operating and Emergency loans on the same basis and to permit the payment of certain taxes as operating expenses, and to read as follows:

§ 371.5 Releasing security property.

Property mortgaged to the Farmers Home Administration may be released as provided in this subpart only when it clearly appears from the facts that such release will not be to the financial detriment of the Government. Borrowers will be held strictly accountable to the Government for the proper use of proceeds from the sale of security property. Insurance proceeds derived from the loss of security property will be treated the same as proceeds derived from the sale of security property. The authority to release security for Farmers Home Administration loans is different for basic security and normal farm income security. The release authorities in this subpart will be applicable to all Farmers Home Administration loans secured by chattels except when a borrower is indebted on a Special Livestock loan only, or on both a Special Livestock loan and a Soil and Water Conservation loan. In such cases, Subpart C of this part will be followed.

* * * * *

(b) Normal farm income security consists of all security property not considered as basic security. This will include crops, livestock, livestock products, and poultry covered by Farmers Home Administration liens which are sold in the usual course of operating the farm business. County Supervisors are authorized to release normal farm income security when the property has been sold for not less than its fair market value and the proceeds are used in accordance with the requirements in this paragraph, or the property is disposed of without

sale under one or more of the following conditions in this paragraph:

(1) To pay on debts owed to the Farmers Home Administration.

(2) To pay farm and home expenses provided for in the appropriate tables of Form FHA–14 or Form FHA–197A, including approved revisions thereof.

(3) To pay necessary farm and home expenses which are shown as debts in the financial statement on Form FHA–14 or Form FHA–197A and which are to be paid during the year as shown by the debt payment table, provided these debts were incurred in the production, harvesting, or marketing of crops, livestock, livestock products, poultry, or poultry products sold during the year covered by such forms, or were for family subsistence for that year.

(4) To pay income taxes and Social Security taxes not to exceed the amount of one year's such taxes.

(5) To make payments on debts secured by liens on the property sold which are superior to the liens of the Farmers Home Administration.

(6) To pay annual installments on farm real estate debts owed to creditors other than the Farmers Home Administration provided (i) amounts of such installments are reasonable when related to the normal rental charge for similar farms in the area, and (ii) there is assurance that the borrower will retain possession of the farm for the next crop year.

(7) To make reasonable payments on debts owed to other creditors for essential home equipment and essential passenger automobiles provided for in the debt payment tables of Form FHA–14 or Form FHA–197A or approved revision thereof. Such debts ordinarily will not be paid before the full amount agreed upon for the year has been paid to the Farmers Home Administration. However, reasonable amounts may be paid on such debts to other creditors before the amount agreed upon for the year has been paid to the Farmers Home Administration provided failure to make such payments to other creditors when due would result in the borrower's losing possession of essential home equipment or an essential passenger automobile, and such loss of possession would make it necessary for the borrower to replace the property or to go to substantial additional expense in order to continue his farming operations.

(8) To make payments on debts owed to other creditors and to make purchases or to meet expenses which are not otherwise provided for in this paragraph, including the payment of income taxes and Social Security taxes not included in subparagraph (4) of this paragraph, provided (i) such debt payments, purchases, or expenses are included in the Form FHA–14 or Form FHA–197A, (ii) it appears clear that sufficient income will be available to pay on the Farmers Home Administration debts secured by liens on chattel property the amount scheduled on the notes to fall due during the year, plus the amount agreed to be paid on any delinquencies on such debts, and (iii) such debt payments, purchases, or expenses are essential to permit the borrower to obtain or retain necessary equipment, or to continue operation of the farm on a sound basis.

(9) To pay costs required to preserve or realize on security property because of an emergency or catastrophe when the need for funds cannot be met through a Farmers Home Administration loan in sufficient time to prevent the borrower and the Farmers Home Administration from suffering a substantial loss.

(10) To permit mortgaged crops to be fed to livestock when it is determined by the County Supervisor that such disposal of the mortgaged crops is preferable to direct marketing of the crops provided a lien or assignment is obtained in accordance with § 341.9(a)(4) or § 381.8 (a)(3) of this chapter, depending upon the type of loan.

(11) When livestock is consumed by the borrower family for necessary subsistence purposes.

(12) When the Farmers Home Administration holds a mortgage on crops in which neither the borrower nor the Farmers Home Administration has an interest, due to the fact that the borrower is no longer occupying or farming the premises described in the mortgage.

4. Section 371.8 in Title 6, Code of Federal Regulations (23 F.R. 4309), is revised to give additional authority to County Supervisors and to reflect the current Commodity Credit Corporation regulations with respect to executing waivers and subordinations under its programs and to read as follows:

§ 371.8 Waivers and subordinations of crop liens for borrowers receiving loans or selling commodities under Commodity Credit Corporation programs, other than on wool and mohair.

The authorities and procedures outlined in this paragraph for waiver of Farmers Home Administration liens apply to Commodity Credit Corporation cotton loan and cotton purchase programs and for subordination of Farmers Home Administration liens apply to Commodity Credit Corporation loan programs on other commodities, except release of liens on wool and mohair. The authorities and procedures contained herein apply whether Commodity Credit Corporation loans or purchases are made directly by Commodity Credit Corporation or through a lending or purchasing agency authorized by Commodity Credit Corporation.

(a) *Commodity Credit Corporation loan programs*—(1) *Authority.* County Supervisors are authorized to execute waivers or subordinations of Farmers Home Administration liens on crops in favor of Commodity Credit Corporation or its approved lending agencies, to enable Farmers Home Administration borrowers to obtain Commodity Credit Corporation loans, provided (i) the loan funds are to be used for the purposes set forth in § 371.5(b) of this subpart, (ii) the loan is for the full amount of the Commodity Credit Corporation loan value of the total quantity of the commodity described in the Commodity Credit Corporation loan forms, and (iii) the producer's note contains a request for disbursement of loan funds, as set forth in subparagraph (2) of this paragraph, and provided further that when the amount of the commodity loan is less than the market value of the crop pledged at the time such loan is made, the borrower has paid or will pay from the Commodity Credit Corporation loan the amount due on debts owed to the Farmers Home Administration for the crop year, including any delinquencies.

(2) *Routines for handling lien waivers or subordinations.* For borrowers to obtain Commodity Credit Corporation loans, County Supervisors will be required to execute waivers or subordinations of Farmers Home Administration liens on Forms CL–AA and CL–B, CCC Rice–B, CCC Dry Bean–B, and CCC Cotton A and G 2, which will be furnished by the Commodity Credit Corporation or its approved lending agencies. If any other type of lien waiver or subordination form is being used locally for Commodity Credit Corporation loans, such form may be used to waive or subordinate the lien of the Farmers Home Administration if approved by the State Director upon the advice of the Attorney in Charge. The borrower will be required by Commodity Credit Corporation to sign a producer's note to evidence the commodity loan. Space is provided in the note for the insertion of the names and addresses of lienholders and the amounts which the producer requests the payee (Commodity Credit Corporation or its associate lending agency involved) to pay to them or to other parties who may have an interest in the proceeds. Before signing the "Lienholder's Waivers," the County Supervisor is responsible for seeing that such space in the producer's note is filled in properly so as to provide for the proper distribution of the Commodity Credit Corporation loan funds. The producer's note should provide for the issuance of a check payable to the Farmers Home Administration for the total amount to be paid to this agency, or a statement will be inserted requiring the issuance of a joint check for the net proceeds of the loan payable to Farmers Home Administration, the borrower, and any other lienors or designees. Either method of disbursement will be acceptable.

(b) *Commodity Credit Corporation cotton purchase program*—(1) *Authority.* County Supervisors are authorized to execute waivers of Farmers Home Administration liens on cotton in favor of the Commodity Credit Corporation or its approved purchasing agencies to enable borrowers indebted to the Farmers Home Administration to sell cotton being purchased by Commodity Credit Corporation or such agencies, provided the cotton is sold for its present market value, the sales proceeds are to be used for the purposes set forth in § 371.5(b), and the producer's sales agreement contains a request for payment of the purchase price as set forth in subparagraph (2) of this paragraph.

(2) *Routines for handling lien waivers.* For borrowers to sell the cotton being purchased by Commodity Credit Corporation or its approved purchasing agencies, County Supervisors will be required to execute waivers of Farmers Home Ad-

ministration liens. Waiver forms on Form CCC Cotton SA will be furnished by Commodity Credit Corporation or its approved purchasing agencies. The borrower will be required by Commodity Credit Corporation to sign Form CCC Cotton SA. Space is provided in this form under "Producer's Sales Agreement" for insertion of the names and addresses of lienholders and the amounts which the producer request the payee (Commodity Credit Corporation or its approved purchasing agency involved) to pay to them or to other parties who may have an interest in the proceeds. Before signing the "Lienholder's Waiver" on this Form, the County Supervisor is responsible for seeing that such space in Form CCC Cotton SA is filled in properly so as to provide for the proper distribution of the purchase price. Form CCC Cotton SA should provide for the issuance of a check payable to the Farmers Home Administration covering the total amounts to be paid to this agency or a statement will be inserted requiring the issuance of a joint check for the net proceeds of the cotton payable to the Farmers Home Administration, the borrower, and any other lienors or designees. Either method of disbursement will be acceptable.

(3) *Special authority.* Because of market locations or other unusual marketing condition, the Administrator may grant special authorization to County Supervisors, other than those serving the area in which the borrower resides, to execute lien waivers for Farmers Home Administration on Form CCC Cotton SA.

(c) *Redelegating authority.* The County Supervisor is authorized hereby to redelegate the authority to execute waivers or subordinations of Farmers Home Administration liens in favor of Commodity Credit Corporation or its approved lending and purchasing agencies as provided in this § 371.8 to any employees in bonded positions in his office.

5. In § 371.10 in Title 6, Code of Federal Regulations (23 F.R. 4310), a new paragraph (b)(7) is added to authorize waivers in connection with contract crops, and paragraph (d) is revised to permit waivers on other approved forms and to read as follows:

§ 371.10 Subordination of security.

* * * * *

(b) *Authorizations and purposes.* State Directors are authorized hereby to execute subordinations of Farmers Home Administration liens on property subject to the above-stated policy and in the following instances:

* * * * *

(7) When another creditor has made or will make advances to produce, harvest, process, or market a particular crop(s) provided the crop(s) is under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop(s) or to purposes related thereto. Under this authority, waivers of Farmers Home Administration lien priority in favor of such creditors may be executed in lieu of subordinations where this is necessary, provided the policy conditions of paragraph (a) of this section, under which subordinations by the Government may be executed, are met.

* * * * *

(d) *Method.* Subordinations or lien waivers authorized herein will be made on Form FHA–286, "Subordination by the Government," or on other suitable forms approved by the Farmers Home Administration.

6. Section 371.12 in Title 6, Code of Federal Regulations (23 F.R. 4310, 24 F.R. 1675) is revised to standardize the issuance of satisfactions for Operating, Special Livestock, Emergency, and other production-type loans and for certain debt settlement cases; to specify acceptable forms of payment on accounts; to provide for redelegations of authority; and to read as follows:

§ 371.12 Satisfaction of instruments securing Operating, Emergency, Special Livestock, and other production-type loans secured by crops and chattels, and Soil and Water Conservation loans, including Water Facilities loans coded J, secured by chattels.

County Supervisors are authorized to satisfy mortgages, deeds of trust, assignments, severance agreements, and other security instruments upon receipt of payment in full of all notes secured by such instruments and in debt settlement cases when the notes are returned to the borrower.

(a) *Form of payment.* When payment is received in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the security instruments may be satisfied upon receipt of final payment. When the final payment is made in a form other than the forms mentioned above, the security instruments will not be satisfied until 15 days after the date of final payment.

(b) *Recording or filing satisfactions.* Satisfactions will be made on Form FHA–77, "Satisfaction," or other approved form in an original and one copy. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the County Office. However, if state laws require recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor.

(c) *Marginal entry or other form of satisfaction.* When state statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FHA–77 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions in the appropriate manner.

(d) *Satisfaction in debt settlement cases.* In debt settlement cases, the security instruments will be satisfied only when the notes are to be returned to the borrower in accordance with Part 364 of this chapter.

(e) *Release of Government's interest in insurance policies.* When liens on property covered by insurance have been released, the County Supervisor is authorized hereby to notify the insurance company that the Government has released its lien on the property covered by the insurance.

(f) *Redelegation of authority to satisfy security instruments.* County Supervisors are authorized hereby to redelegate to employees in bonded positions the authority to satisfy security instruments in accordance with the provisions of this § 371.12.

§ 371.15 [Revocation]

7. Section 371.15 in Title 6, Code of Federal Regulations (23 F.R. 4311) is hereby revoked.

(R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 40 U.S.C. 442, 16 U.S.C. 590x–3. Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: May 4, 1960.

H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 60–4224; Filed, May 10, 1960; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 195, Amdt. 1]

PART 922 — VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available

and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1)(i) of § 922.495 (Valencia Orange Regulation 195, 25 F.R. 3794) are hereby amended to read as follows:

(i) District 1: 700,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 6, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60–4251; Filed, May 10, 1960; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59–FW–89]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Revocation of Segment of Federal Airway, Associated Control Areas, Control Area Extension and Reporting Points; Modification of Control Area Extension

On February 3, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 914) stating that the Federal Aviation Agency proposed the following actions: Revocation of a segment of Green Federal airway No. 5, and its associated control areas from Pine Bluff, Ark., to Nashville, Tenn.; revocation of the Memphis, Tenn., Nashville, Tenn., and Jacks Creek, Tenn., radio ranges and the Pine Bluff, Ark., and Smithville, Tenn., nondirectional radio beacons as designated reporting points; redesignation of the Memphis control area extension, and revocation of the Pine Bluff control area extension.

On March 25, 1960, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 2544) stating that the Federal Aviation Agency was considering amending the original notice by proposing to revoke the segment of Green Federal airway No. 5 and associated control areas from Pine Bluff to Knoxville, Tenn. In addition, the period for submitting written data, views or arguments was extended.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice and the supplemental notice, the following action is taken:

1. In § 600.15 (24 F.R. 10493), the following changes are made:

(a) In the caption "*(Los Angeles, Calif., to Fort Worth, Tex., and Pine Bluff, Ark., to Boston, Mass.)*" is deleted and "*(Los Angeles, Calif., to Fort Worth, Tex., and Knoxville, Tenn., to Boston, Mass.)*" is substituted therefor.

(b) In the text "From the Pine Bluff, Ark., RBN via the Memphis, Tenn., radio range station; Jack's Creek, Tenn., radio range station; Nashville, Tenn., radio range station; the intersection of the northeast course of the Nashville radio range and a line bearing 297° True from the Smithville, Tenn., nondirectional radio beacon; Smithville, Tenn., nondirectional radio beacon; the intersection of a line bearing 112° True from the Smithville, Tenn., nondirectional radio beacon and the west course of the Knoxville, Tenn., radio range; Knoxville, Tenn., radio range station;" is deleted and "From the Knoxville, Tenn., RR via the" is substituted therefor.

2. In the caption of § 601.15 (24 F.R. 10543) "*(Los Angeles, Calif., to Fort Worth, Tex., and Pine Bluff, Ark., to Boston, Mass.)*" is deleted and "*(Los Angeles, Calif., to Fort Worth, Tex., and Knoxville, Tenn., to Boston, Mass.)*" is substituted therefor.

3. In the text of § 601.1086 (24 F.R. 10551) "by Green Federal airway No. 5" is deleted and "by VOR Federal airway No. 16" is substituted therefor.

4. In Part 601 (24 F.R. 10530), § 601.1222 is revoked.

5. In § 601.4015 (24 F.R. 10592), the following changes are made:

(a) In the caption "*(Los Angeles, Calif., to Fort Worth, Tex., and Pine Bluff, Ark., to Boston, Mass.)*." is deleted and "*(Los Angeles, Calif., to Fort Worth Tex., and Knoxville, Tenn., to Boston Mass.)*." is substituted therefor.

(b) In the text "Pine Bluff, Ark., nondirectional radio beacon; Memphis, Tenn., radio range station; Jack's Creek, Tenn., radio range station; Nashville, Tenn., radio range station; Smithville, Tenn., nondirectional radio beacon;" is deleted.

These amendments shall become effective 0001 e.s.t., June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 4, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–4205; Filed, May 10, 1960; 8:46 a.m.]

[Airspace Docket No. 59–NY–56]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Revocation of a Segment of Federal Airway, Associated Control Areas and Reporting Points

On March 1, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 1804) stating that the Federal Aviation Agency proposed to revoke the segment of Blue Federal airway No. 45 and its associated control areas between Keene, N.H., and Lebanon, N.H.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, §§ 600.645 (24 F.R. 10502), 601.645 (24 F.R. 10546) and 601.4645 (24 F.R. 10597) are amended to read:

§ 600.645 Blue Federal airway No. 45 (Montpelier, Vt., to Newport, Vt.).

From the Montpelier, Vt., RR via the INT of the NE course of the Montpelier RR and a line bearing 180° True from the Newport, Vt., RBN; to the Newport RBN.

§ 601.645 Blue Federal airway No. 45 control areas (Montpelier, Vt., to Newport, Vt.).

All of Blue Federal airway No. 45.

§ 601.4645 Blue Federal airway No. 45 (Montpelier, Vt., to Newport, Vt.).

No reporting point designation.

These amendments shall become effective 0001 e.s.t., June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 4, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–4207; Filed, May 10, 1960; 8:46 a.m.]

[Airspace Docket No. 60–KC–3]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Revocation of Coded Jet Route

On March 1, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 1804) stating that the

Federal Aviation Agency proposed to revoke L/MF jet route No. 8 from Oklahoma City, Okla., to Belleville, Ill., in its entirety.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, Part 602 (14 CFR, 1958 Supp., Part 602) is amended as follows:

Section 602.108 *L/MF jet route No. 8 (Oklahoma City, Okla., to Belleville, Ill.)* is revoked.

This amendment shall become effective 0001 e.s.t. June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 4, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4206; Filed, May 10, 1960; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

Subpart D—Food Additives Permitted in Food for Human Consumption

CHLORTETRACYCLINE; PERMITTED ADDITION TO CERTAIN CHICKEN FEEDS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by American Cyanamid Company, Post Office Box 383, Princeton, New Jersey, and other relevant material has concluded that the following food additive regulation should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act with respect to the addition of the food additive chlortetracycline to certain chicken feeds containing low dietary calcium. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (23 F.R. 9500), subpart C is amended by adding thereto the following new section:

§ 121.208 Chlortetracycline in medicated chicken feed.

Chlortetracycline may be safely used in chicken feed when incorporated therein in accordance with the conditions prescribed in this section:

(a) It is intended for use only in the treatment of the diseases of chickens described in § 146.26(b)(7) of this chapter.

(b) The quantity of chlortetracycline added is such that the finished feed contains not less than 110 parts per million (0.0110 percent) nor more than 220 parts per million (0.0220 percent) of chlortetracycline.

(c) The quantity of chlortetracycline referred to in this section in terms of weight, refers to an activity equivalent to that of the same weight of the chlortetracycline master standard.

(d) It is intended for use only in chicken feed that contains 0.4 percent to 0.55 percent dietary calcium or which contains 0.8 percent dietary calcium.

(e) To assure safe use of the additive, the label of the additive container or a premix prepared therefrom shall contain, in addition to other information required by the act:

(1) The name of the additive, chlortetracycline.

(2) In the case of a premix, the quantity of chlortetracycline contained therein.

(3) Appropriate and accurate mixing directions to provide a final feed with the proper concentration of the additive and the dietary calcium levels, whether or not intermediate premixes are also used.

(4) Appropriate and accurate use directions for labeling the finished feed in accordance with paragraph (f) of this section.

(f) The label of the finished feed containing the additive shall, in addition to other information required by the act, bear the following:

(1) The statement "_____ chlortetracycline added," the blank being filled with the level of the chlortetracycline present.

(2) A statement that the medicated feed should not be used for laying hens.

(3) A statement of the dietary level of calcium contained therein.

(4) If it contains 0.40 percent–0.55 percent of dietary calcium, the statement "Not to be fed continuously for more than 5 days."

(5) If it contains 0.8 percent of dietary calcium, the statement "Not to be fed continuously for more than 8 weeks."

(6) The word "medicated," prominently and conspicuously, wherever the term "feed" or "chicken feed" appears on the label.

Based upon an evaluation of the data submitted in the petition and other relevant material, and proceeding under the authority of section 409(c)(4) of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348), the Commissioner of Food and Drugs has further concluded that a tolerance limitation for residues of chlortetracycline in or on the meat of raw poultry is required in order to assure the safe use of the food additive chlortetracycline in chicken feed and that the levels established herein will present no hazard to the public health. Therefore, the following tolerances are established and subpart D is amended by adding thereto the following section:

§ 121.1014 Tolerances for residues of chlortetracycline in the edible tissues of chickens slaughtered for human food.

(a) Tolerances for residues of chlortetracycline in edible tissues of chickens fed on chlortetracycline medicated feeds are established as follows:

(1) 4 parts per million (0.0004 percent) in uncooked kidneys.

(2) 1 part per million (0.0001 percent) in uncooked muscle, liver, fat, and skin.

(b) Residues established in this section may be in addition to residues of chlortetracycline in chicken tissues provided for in Part 120 of this chapter.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 409(c), 72 Stat. 1786; 21 U.S.C. 348(c))

Dated: May 4, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-4234; Filed, May 10, 1960; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Animal Feed Containing Antibiotic Drugs

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), the general regulations for the certification of antibiotic and antibiotic-containing drugs (23 F.R. 6421) are amended by adding the following new sentence to § 146.26(b)(7): "If it is intended for use solely in the treatment of the diseases of chickens described herein, it contains, per ton of feed, not less than 100 grams and not more than 200 grams of chlortetracycline and it contains not less than 0.4 percent and not more than 0.8 percent of dietary calcium, then representations

may be made in its labeling to the effect that the reduced amount of calcium aids in increasing the concentrations of the antibiotic in the blood of treated birds; the labeling of such medicated feed shall include that required by § 121.208 of this chapter."

Notice and public procedure are not necessary prerequisities to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry; since it relaxes existing requirements; and since it would be contrary to public interest to delay providing for the amendment incorporated in this order.

I further find that animal feed containing antibiotic drugs and conforming with the conditions prescribed in this order need not comply with the requirements of sections 502(1) and 507 of the Federal Food, Drug, and Cosmetic Act in order to insure their safety and efficacy.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies secs. 502, 507, 52 Stat. 1050, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: May 4, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-4233; Filed, May 10, 1960; 8:49 a.m.]

Title 23—HIGHWAYS

Chapter I—Bureau of Public Roads, Department of Commerce

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Part 1 of Chapter 1 of Title 23 of the Code of Federal Regulations is revised to read as follows:

Sec.

AUTHORITY: §§ 1.1 to 1.38 issued under sec. 315, 72 Stat. 915, 23 U.S.C. 315.

§ 1.1 Purpose.

The purpose of the regulations in this part is to implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways.

§ 1.2 Definitions.

(a) Terms defined in 23 U.S.C. 101(a), shall have the same meaning where used in the regulations in this part, except as modified herein.

(b) The following terms where used in the regulations in this part shall have the following meaning:

Administrator. The Federal Highway Administrator.

Advertising policy. The national policy relating to the regulation of outdoor advertising declared in title 23 U.S.C. 131.

Advertising standards. The "National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways" promulgated by the Secretary (Part 20 of this chapter).

Commissioner. The Commissioner of Public Roads.

Federal laws. The provisions of title 23, United States Code, and all other Federal laws, heretofore or hereafter enacted, relating to Federal aid for highways.

Latest available Federal census. The latest available Federal decennial census, except for the establishment of urban areas.

Project. An undertaking by a State highway department for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.

Secondary road plan. A plan for administration of Federal aid for highways on the Federal-aid secondary highway system pursuant to 23 U.S.C. 117.

Secretary. The Secretary of Commerce.

State. Any State of the United States, the District of Columbia and Puerto Rico.

Urban area. An area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available published official Federal census, decennial or special, within boundaries to be fixed by a State highway department, subject to the approval of the Administrator.

§ 1.3 Federal-State cooperation; Authority of State highway departments.

The Administrator shall cooperate with the States, through their respective State highway departments, in the construction of Federal-aid highways. Each State highway department, maintained in conformity with 23 U.S.C. 302, shall be authorized, by the laws of the State, to make final decisions for the State in all matters relating to, and to enter into, on behalf of the State, all contracts and agreements for projects and to take such other actions on behalf of the State as may be necessary to comply with the Federal laws and the regulations in this part.

§ 1.4 Cooperation of governmental instrumentalities.

The State highway department shall be responsible for any project to be undertaken with the cooperation of, or with funds provided by, any other governmental instrumentality.

§ 1.5 Information furnished by State highway departments.

At the request of the Administrator the State highway department shall furnish to him such information as the Administrator shall deem desirable in administering the Federal-aid highway program.

§ 1.6 Federal-aid highway systems.

(a) *Selection or designation.* To insure continuity in the direction of expenditures of available funds, systems of Federal-aid highways are selected or designated by any State that desires to avail itself through its State highway department, of the benefits of Federal aid for highways. Upon approval by the Administrator of the selections or designations by a State highway department, such highways shall become portions of the respective Federal-aid highway systems, and all Federal-aid apportionments shall be expended thereon.

(b) *Revisions.* A State highway department may propose revisions, including additions, deletions or other changes, in the routes comprising the approved Federal-aid highway systems. Any such revision shall become effective only upon approval thereof by the Administrator upon a determination that such revision is in the public interest and consistent with Federal laws. There is no predetermined time limit for the submission of the full selection of the systems.

(c) *Selection considerations.* Each Federal-aid system shall be so selected or designated as to promote the general welfare and the national and civil defense and to become the pattern for a long-range program of highway development to serve the major classes of highway traffic broadly identified as (1) interstate or interregional; (2) city-to-city primary, either interstate or intrastate; (3) rural secondary or farm-to-market; and (4) intraurban. The conservation and development of natural resources, the advancement of economic and social

values, and the promotion of desirable land utilization, as well as the existing and potential highway traffic and other pertinent criteria are to be considered when selecting highways to be added to a Federal-aid system or when proposing revisions of a previously approved Federal-aid system.

(d) *Identity.* The Federal-aid highway systems as now constituted and approved are identified as:

(1) The Interstate System, as described in 23 U.S.C. 103(d), comprised of highways of the highest importance to the nation;

(2) The Federal-aid primary system, as described in 23 U.S.C. 103(b), comprised of important city-to-city, interstate and intrastate highways, serving essentially through traffic; and

(3) The Federal-aid secondary system, as described in 23 U.S.C. 103(c), not to exceed in any State at one time a mileage that can be initially improved within a reasonable period of years and thereafter maintained with income expected to be available.

(e) *Integration.* The highways of the Federal-aid systems shall form integrated and connected networks in each State and nationwide. The individual routes of Federal-aid systems that cross the boundary line between contiguous States are to connect at the boundary line, and except in unusual cases the identity of the Federal-aid system for any such route shall be the same in the States involved.

§ 1.7 Urban area boundaries.

Boundaries of an urban area shall be submitted by the State highway department and be approved by the Administrator prior to the inclusion in a program of any project wholly or partly in such area involving funds authorized for and limited to urban areas.

§ 1.8 Programs of proposed projects.

Each State highway department shall prepare and submit to the Administrator, for his approval, detailed programs of proposed projects in such form and supported by such information as the Administrator may require. The Administrator shall not authorize any State to proceed with any project, or part thereof, until the program which includes such project has been approved.

§ 1.9 Limitation on Federal participation.

Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this part, and policies and procedures prescribed by the Administrator. Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State highway department to proceed with the project or part thereof involving such cost.

§ 1.10 Surveys, plans, specifications and estimates.

(a) *Preparation.* Surveys, plans, specifications and estimates shall be prepared by or under the immediate direction of the State highway department and shall be of such content and form as prescribed by the Administrator.

(b) *Approval.* No project or part thereof for actual construction shall be advertised for contract nor work commenced by force account until plans, specifications, and estimates have been submitted to and approved by the Administrator and the State has been so notified.

§ 1.11 Engineering services.

(a) *Federal participation.* Costs of engineering services performed by the State highway department or any instrumentality or entity referred to in paragraphs (b) and (c) of this section may be eligible for Federal participation only to the extent that such costs are directly attributable and properly allocable to specific projects. Expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraphs (b) and (c) of this section shall not be eligible for Federal participation.

(b) *Governmental engineering organizations.* The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other governmental instrumentalities for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any project.

(c) *Railroad and utility engineering organizations.* The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of the affected railroad companies for railway-highway crossing projects and of the affected utility companies for projects involving utility installations.

(d) *Private engineering organizations.* Private engineering organizations may be utilized on projects in accordance with requirements prescribed by the Administrator.

(e) *Responsibility of the State highway department.* The State highway department is not relieved of its responsibilities under Federal law and the regulations in this part in the event it utilizes the services of any engineering organization under paragraphs (b), (c) or (d) of this section.

§ 1.12 Authorizations to proceed with projects.

No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for contract, prior to authorization thereof by the Administrator.

§ 1.13 Changes in project work and cost.

Subsequent to authorization by the Administrator to proceed with a project or any undertaking thereunder, no change shall be made which will increase the cost of the project to the Federal Government or alter the termini, character or scope of the work without prior authorization by the Administrator.

§ 1.14 Project agreements.

Project agreements, and modifications thereof, shall be in forms satisfactory to the Administrator, evidencing acceptance by the State highway department of conditions to payment of Federal funds, as prescribed by Federal laws and the regulations in this part, and the amount of Federal funds obligated.

§ 1.15 Construction contracts and force account work.

(a) *Competitive bidding.* Except as provided in paragraph (b) of this section or when the Administrator finds that because of unusual circumstances some other method is in the public interest, actual construction work shall be performed by contract awarded to the lowest responsible bidder. The State highway department shall assure opportunity for free, open and competitive bidding, including adequate publicity of the advertisements or calls for bids. The advertising or calling for bids and the award of contracts shall comply with procedures and requirements prescribed by the Administrator.

(b) *Force account work.* When the Administrator finds that it is in the public interest, construction work may be performed by force account pursuant to requirements and procedures prescribed by him. Before such finding is made, the State highway department shall determine that the organization to undertake the work is so staffed and equipped as to perform such work satisfactorily and economically.

§ 1.16 Licensing and qualification of contractors.

With respect to Federal-aid projects, no procedure or requirement for prequalification, qualification or licensing of contractors shall be approved which, in the judgment of the Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed. No contractor shall be required by law, regulation or practice to obtain a license before he may submit a bid or before his bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon by or may be awarded to a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor's experience, personnel, equipment, financial resources, and performance record.

§ 1.17 Health and safety.

Contracts for projects shall include provisions designed (a) to insure full compliance with all applicable Federal, State and local laws governing safety, health and sanitation, and (b) to require that the contractor shall provide all safeguards, safety devices and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

§ 1.18 Furnishing of materials.

Contracts for projects shall require the contractor to furnish all materials incorporated in the work, except as otherwise authorized by the prior approval of the Administrator.

§ 1.19 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State in connection with a project which may operate (a) to require the use or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or (b) to prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Commerce as evidenced by requirements and procedures prescribed by the Administrator to carry out such policies.

§ 1.20 Surety bonds and insurance.

No procedure or requirement shall be imposed by any State in connection with any project which may operate to discriminate against the purchase of a surety bond or insurance policy from any surety or insurer outside the State and authorized to do business in the State, or which may operate to prohibit or restrict payment of all or any part of the fee, commission or premium for any surety bond or insurance policy, issued by a surety or insurer authorized to do business in the State, to any agent, broker or firm outside the State.

§ 1.21 Subcontracting.

(a) *Contractor's organization.* Contracts for projects shall require that the contractor perform with his own organization contract work amounting to not less than 50 percent of the total contract price. If any of the contract work requires highly specialized knowledge, craftmanship or equipment not ordinarily available in contracting organizations qualified to bid on the contract as a whole, such work may be designated in the advertised specifications as "Specialty Items" and may be performed by subcontract. The cost of such "Specialty Items" may be deducted from the total contract price before computing the amount of work required to be performed by the contractor with his own organization.

(b) *Exception.* Upon the request of a State, the requirements of this section may be modified by the Administrator for a project prior to or after the award of a contract, heretofore or hereafter made, to such extent as he may determine to be in the public interest.

§ 1.22 Patented or proprietary items.

Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process, specifically set forth in the plans and specifications for a project, unless

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State highway department certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

§ 1.23 Rights-of-way.

(a) *Interest to be acquired.* The State shall acquire rights-of-way of such nature and extent as are adequate for the construction, operation and maintenance of a project.

(b) *Use for highway purposes.* Except as provided under paragraph (c) of this section, all real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes. No project shall be accepted as complete until this requirement has been satisfied. The State highway departments shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments, except (1) those approved under paragraph (c) of this section; (2) those which the Administrator approves as constituting a part of a highway or as necessary for its operation, use or maintenance for public highway purposes and (3) informational sites established and maintained in accordance with § 1.35 of the regulations in this part.

(c) *Other use or occupancy.* Subject to 23 U.S.C. 111, the temporary or permanent occupancy or use of right-of-way, including air space, for nonhighway purposes and the reservation of subsurface mineral rights within the boundaries of the rights-of-way of Federal-aid highways, may be approved by the Administrator, if he determines that such occupancy, use or reservation is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic thereon.

§ 1.24 Labor and employment.

(a) *Convict labor.* No convict labor shall be employed and no materials manufactured or produced by convict labor shall be used in the construction of a project. No convict labor shall be employed at the site of a project after the approval of the program including the project and prior to the completion of its construction.

(b) *Selection of labor.* No procedure or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a project.

(c) *Wage rates; Interstate System projects.* The advertisement or call for bids on any contract for the initial construction of a project on the Interstate System either shall include the minimum wage rates determined therefor by the Secretary of Labor or shall provide that such rates are set out in the advertised specifications, proposal or other contract document, and shall further specify that such rates are a part of the contract covering the project.

(d) *Wage rates; other Federal-aid projects.* Contracts for the construction of projects other than those for initial construction of the Interstate System shall require that laborers and mechanics employed on such construction shall be paid rates of wages not less than the minimum rates therefor set forth in the contract for such construction as predetermined under State law or, in the absence thereof, by the State highway department.

(e) *Construction by Federal agencies.* In those cases where construction work on Federal-aid highways is being performed by any Federal agency under its procedures and by Federal contract, the labor standards relating to direct Federal contracts shall be applicable.

§ 1.25 Railway-highway crossing projects.

(a) *Requirements for agreements or orders.* Before a project for the elimination of hazards at a railway-highway crossing shall be approved for construction with the aid of Federal funds, irrespective of the Federal share of the cost of such construction, either (1) an agreement shall have been entered into between the State highway department and the railroad concerned; or (2) an order authorizing the project shall have been issued by the State public utility commission or other agency or official having comparable powers. Such agreement or order shall contain provisions specifying responsibility for and pertinent details concerning construction, maintenance, and railroad contributions relating to the project, which, subject to 23 United States Code, section 130, and other applicable Federal law, conform to, and are not inconsistent with, the policies, classifications of projects and procedures prescribed by the Administrator. In extraordinary cases, where the Administrator finds that the circumstances are such that requiring such agreement or order would not be in the best interests of the public, projects may be approved for construction with the aid of Federal funds without requiring such agreement or order prior to such approval, provided provisions satisfactory to the Administrator have been made with respect to construction, maintenance and railroad contributions relating to the project.

(b) *Applicability of State laws.* State laws pursuant to which contributions are imposed upon railroads for the elimination of hazards at railway-highway crossings shall be held not to apply to Federal-aid projects.

§ 1.26 Highway planning and research projects.

The funds programmed for highway planning and research projects under 23 U.S.C. 307(c) shall be administered as a single fund, but the identity of such funds, as Interstate, primary, secondary or urban, shall be preserved.

§ 1.27 Maintenance.

The responsibility imposed upon the State highway department, pursuant to 23 U.S.C. 116, for the maintenance of projects shall be carried out in accordance with policies and procedures issued by the Administrator. The State highway department may provide for such maintenance by formal agreement with any adequately equipped county, municipality or other governmental instrumentality, but such agreement shall not relieve the State highway department of its responsibility for such maintenance.

§ 1.28 Diversion of highway revenues.

(a) *Reduction in apportionment.* If the Secretary shall find that any State has diverted funds contrary to 23 U.S.C. 126, he shall take such action as he may deem necessary to comply with said provision of law by reducing the first Federal-aid apportionment of primary, secondary and urban funds made to the State after the date of such finding. In any such reduction, each of these funds shall be reduced in the same proportion.

(b) *Furnishing of information.* The Administrator may require any State to submit to him such information as he may deem necessary to assist the Secretary in carrying out the provisions of 23 U.S.C. 126 and paragraph (a) of this section.

§ 1.29 Vehicle weight and width limitation.

When requested by the Administrator, each State shall certify to the Administrator, with such pertinent information as he may require, whether or not its laws and regulations conflict with the limitations of 23 U.S.C. 127 as to weight and width of vehicles which may lawfully use the Interstate System within the boundaries of that State.

§ 1.30 Records and documents.

(a) *General.* Each State highway department shall maintain or cause to be maintained all records and documents relating to the undertaking, carrying out and maintaining of each project in such form and manner as will enable the State to make available to the Administrator such information and data as he may require and shall be retained for a period of not less than three years from the date of the final payment of Federal funds to the State with respect to the particular project.

(b) *Toll facilities.* If Federal funds participate in a project for the construction of a toll bridge, toll tunnel or approach to a toll facility, under 23 U.S.C. 129, the State highway department shall maintain or cause to be maintained, in addition to the records specified in paragraph (a) of this section, such financial and other records relating to the construction, acquisition, income, expenditures, maintenance and the operation of the facility as will enable the Administrator to determine compliance with the provisions of 23 U.S.C. 129. Such records shall be retained until the facility shall have been operated on a free basis for a period of at least three years.

(c) *Availability for inspection.* Records and documents maintained under paragraphs (a) and (b) of this section shall be available at all reasonable times for inspection by any authorized representative of the Federal Government and copies thereof shall be furnished when requested.

§ 1.31 Payments.

States may submit requests for payments of Federal funds claimed to be due on account of a project. Such requests shall be in the form of vouchers as prescribed by the Administrator, and shall be certified and accompanied with such supporting data as the Administrator may require. Such vouchers may be submitted from time to time as the work progresses and shall be submitted promptly after completion of the project to which the voucher pertains.

§ 1.32 Policies and procedures.

The Administrator shall promulgate and require the observance of such policies and procedures, and may take such other action as he may deem necessary for carrying out the provisions and purposes of the Federal laws and the regulations in this part.

§ 1.33 Conflicts of interest.

No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for and in behalf of the State. It shall be the responsibility of the State to enforce the requirements of this section.

§ 1.34 Secondary road plan.

The approval by the Administrator of a State's certified statement of its secondary road plan, pursuant to 23 U.S.C. 117 will remain in effect for such time as the Administrator in his discretion may determine. Projects undertaken pursuant to such approved certified statement shall not be subject to the following sections of the regulations in this part: §§ 1.10; 1.15; 1.16; 1.18; 1.19; 1.20; 1.21; 1.22; 1.24 (b), (c), (d) and (e).

§ 1.35 Advertising.

(a) *Agreements.* Any agreement entered into pursuant to the provisions of 23 U.S.C. 131 shall provide for the control or regulation of outdoor advertising, consistent with the Advertising Standards and Advertising Policy, in areas adjacent to the entire mileage of the Interstate Systems within that State, except such segments as may be excluded from application of such Standards and Policy by 23 U.S.C. 131. Such agreements may be modified, amended or supplemented as the Administrator may determine is necessary.

(b) *Informational sites.* Any such agreement for the control of advertising may provide for establishing publicly owned informational sites, whether publicly or privately operated, within the limits of or adjacent to the right-of-way of the Interstate System on condition that no such site shall be established or maintained except at locations and in accordance with plans, in furtherance of the Advertising Policy and consistent with the Advertising Standards, submitted to and approved by the Administrator.

(c) *Acquisition of advertising rights.* Federal funds may participate in the cost of acquiring rights to advertise or to regulate advertising only if the purpose of such acquisition is to accomplish the objectives stated in 23 U.S.C. 131. Projects for the acquisition of advertising rights shall embrace a segment of the highway of sufficient length to promote the objectives of the Advertising Policy. Within the limits of any such segment, provision shall be made for acquiring all of the advertising rights on both sides of the highway necessary to effectuate the Advertising Policy and Advertising Standards. No advertising right in the acquisition of which Federal funds participated shall be disposed of without the prior approval of the Administrator.

§ 1.36 Compliance with Federal laws and regulations.

If the Administrator determines that a State has violated or failed to comply with the Federal laws or the regulations in this part with respect to a project, he may withhold payment to the State of Federal funds on account of such project, withhold approval of further projects in the State, and take such other action that he deems appropriate under the circumstances, until compliance or remedial action has been accomplished by the State to the satisfaction of the Administrator.

§ 1.37 Delegation of authority.

The Administrator has been delegated authority to perform the functions vested in the Secretary under Federal law, except the apportionment of Federal-aid funds among the States. The Secretary has reserved to himself the function of issuing or revising regulations.

The Administrator is authorized to redelegate any power or authority conferred upon him to the Commissioner or to any other official or employee of the Bureau of Public Roads as in his judgment will result in efficiency and economy in the effectuation of the purposes of Federal law and the regulations in this part. Any redelegation by the Administrator may include the power to make successive redelegations of authority to the extent deemed desirable by him. Delegations made under regulations heretofore in effect shall continue in full force and effect until modified or revoked.

§ 1.38 Application of regulations.

The regulations in this part shall take effect upon publication in the FEDERAL REGISTER and shall supersede all regulations heretofore in effect for carrying out the provisions of Federal laws.

Dated: May 5, 1960.

Recommended:

[SEAL] B. D. TALLAMY,
Federal Highway Administrator.

Issued:

FREDERICK H. MUELLER,
Secretary of Commerce.

[F.R. Doc. 60-4226; Filed, May 10, 1960; 8:48 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T. D. 6463]

PART 148—CERTAIN EXCISE TAX MATTERS UNDER THE EXCISE TAX TECHNICAL CHANGES ACT OF 1958

Tax-Free Sales of Bicycle Tires and Tubes

To provide temporary regulations under the provisions of Public Law 86-418 (74 Stat. 38), approved April 8, 1960, the regulations in Part 148, Certain Excise Tax Matters Under the Excise Tax Technical Changes Act of 1958, are revised. Section 148.1-3 of these regulations is amended by revising that portion of paragraph (b) preceding subparagraph (1), adding a subparagraph (13) to paragraph (b) and making the technical amendments necessitated thereby in subparagraphs (11) and (12), revising subparagraph (4) of paragraph (d) and adding a subparagraph (7) to such paragraph, revising paragraph (e), and revising paragraph (f), to read as follows:

§ 148.1-3 Temporary procedures for tax-free sales and purchases.

* * * * *

(b) *Tax-free sales only if seller and purchaser are registered.* Except as provided in paragraphs (c) and (i) of this section, an article subject to tax under chapter 32 may on and after January 1, 1959 (on and after May 1, 1960, in the case of a bicycle tire or tube to be used for the purpose prescribed in subparagraph (13) of this paragraph) be sold tax free by the manufacturer for the following uses (but only if the seller, first purchaser, and second purchaser, as the case may be, have registered as required by this section)—

* * * * *

(11) In the case of gasoline, to a producer of gasoline;

(12) In the case of lubricating oil, to a manufacturer or producer of lubricating oil for resale by him; or

(13) In the case of a bicycle tire and inner tube for such tire, for use by the purchaser as material in the manufacture or production of, or as a component part of, a bicycle (other than a rebuilt or reconditioned bicycle).

* * * * *

(d) *Definitions.* For purposes of this section—

* * * * *

(4) *State and local government.* The term "State and local government" means any State, the District of Columbia, or any political subdivision of any of the foregoing.

* * * * *

(7) *Bicycle tires.* The term "bicycle tire" means a tire, composed of rubber in combination with fabric or other reinforcing element, which is not more than 28 inches in outer diameter and not more than 2¼ inches in cross section and which is primarily designed or adapted for use on bicycles.

(e) *Registration*—(1) *Persons who have Certificates of Registry.* Any person who has been issued a Certificate of Registry which is still in effect (i) authorizing him to sell or purchase articles tax free, or (ii) as a producer or importer of gasoline or manufacturer or producer of lubricating oil, may use such registration for tax-free sales and purchases as provided by this section.

(2) *Persons who have registered by letter.* Any person who does not have a Certificate of Registry and who registered by addressing a communication to a district director or the Director of International Operations as was provided in subparagraph (2) of this paragraph in effect prior to May 11, 1960, may sell and purchase articles tax free as provided in paragraph (b) of this section pursuant to such registration unless the district director or the Director of International Operations, as the case may be, furnishes him with written notification that application on Form 637 for registry is required. In such event, the application for registry shall be made at the time, in the form, and in the manner prescribed in such written notification. Any person who has registered by letter and who has not been assigned a registration number may, if he so desires, file Form 637, in accordance with the provisions of subparagraph (3) of this paragraph, in order to obtain a registration number.

(3) *Persons who have not previously registered.* Any person who is eligible to sell or purchase articles tax free as provided in paragraph (b) of this section and who has not registered as referred to in subparagraph (1) or (2) of this paragraph may make such tax-free sales or purchases in accordance with the following procedure. Such person shall, prior to making a tax-free sale or purchase, file Form 637, in duplicate, executed in accordance with the instructions contained in such form, with the district director for the district in which is located his principal place of business (or if he has no principal place of business in the United States, with the Director of International Operations, Internal Revenue Service, Washington 25, D.C.). Copies of Form 637 may be obtained from any district director. The person who receives a validated Form 637 shall be considered to be registered for purposes of selling or purchasing articles tax free as provided in paragraph (b) of this section. In the case of a religious institution (other than a church) and a nonprofit educational organization, information shall be furnished showing that the institution or organization is exempt from income tax as an institution or organization described in section 501(c)(3) of the Internal Revenue Code (or the corresponding provisions of prior revenue laws).

(f) *Evidence of tax-free sale.* The purchaser shall note on the purchase order or other document furnished to the seller by the purchaser the exempt purpose for which the article or articles are being purchased and the registration number assigned to the purchaser, or if the purchaser has registered as provided in subparagraph (2) of paragraph (e) of this section and does not have a registration number, the date of such registration and the district director with whom registered.

Because this Treasury decision makes only minor changes in existing administrative rules of general applicability and because it is essential that the temporary rules of registration in the case of tax-free sales and purchases be amended to implement provisions of Public Law 86-418 which after May 1, 1960, permits the tax-free sale of bicycle tires and tubes for use in the manufacture of bicycles, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: May 5, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 60-4240; Filed, May 10, 1960; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

PART 590—GENERAL PROVISIONS

PART 591—PROCUREMENT BY FORMAL ADVERTISING

PART 592—PROCUREMENT BY NEGOTIATION

PART 594—INTERDEPARTMENTAL PROCUREMENT

PART 595—FOREIGN PURCHASES

PART 596—CONTRACT CLAUSES

PART 599—BONDS AND INSURANCE

PART 600—FEDERAL, STATE AND LOCAL TAXES

PART 601—LABOR

PART 602—GOVERNMENT PROPERTY

PART 605—PROCUREMENT FORMS

PART 606—SUPPLEMENTAL PROVISIONS

Miscellaneous Amendments

1. Paragraph (b) of § 590.305–2 is revised to read as follows:

§ 590.305–2 Mandatory specifications.

* * * * *

(b) *Deviations and waivers.* All deviations and waivers to Federal and Military Specifications will be subjected to competent review in accordance with procedures established by the chief of each technical service. These procedures must provide for (1) adequate surveillance to minimize the use of deviations and waivers, (2) expeditious routing of data on deviations and waivers, or other data pertinent to amendment or revision developed during procurement and inspection, to the activity within the technical service responsible for specification requirements, and (3) expeditious action by the responsible activity to accomplish amendment or revision of the specification, as necessary, to eliminate the need for repeated deviations and waivers, or to keep the specifications up to date in accordance with AR 715–50.

2. In § 590.311(b)(2), revise subdivisions (i), (iii), (vii), (viii), (xi), (xii) and (xiii) to read as follows:

§ 590.311 Records of contract actions.

* * * * *

(b) *Contract Administration File.*

* * * * *

(2) *Section C—Property Section.* (Separate files sections may be maintained for Government-furnished property and for contract items.)

(i) End item delivery date, i.e., Material Inspection and Receiving Report—or other shipping documents with recap and storage data as appropriate. (Item 303.3 of § 30.2 of this title and § 602.1711–1(b)(4) of this subchapter.)

* * * * *

(iii) Inspection requisitions and correspondence from other purchasing offices relating to inspection.

* * * * *

(vii) Report of Survey (incident to shipment) and other instruments affecting relief of responsibility for Government property except "Written Advices", i.e., special reports from the contractor on which the property administrator determines a "Written Advice" is not required or other instances where, under the provisions of item 402, § 30.2 of this title, a contractor is relieved of responsibility for property other than consumption. (§ 602.1715 of this subchapter.)

(viii) Copy of contracting officer's written determination and findings concerning loss, damage, shortage or destruction of contract items or of Government property used, including excess consumption. (Items 402.1 and 402.2(a), § 30.2 of this title and § 602.1715 of this subchapter.)

* * * * *

(xi) Where the Government maintains the official property control records under the deviation authority contained in item 301(a) of § 30.2 of this title or item 207.1 or § 30.3 of this title, the property file will contain those records set forth in §§ 30.2 or 30.3 of this title necessary for effective property control. (§ 602.1711–1 of this subchapter.)

(xii) Contractor's written receipt for Government-furnished property (item 303.1(c), § 30.2 of this title.)

(xiii) Data, where appropriate, in connection with contractor acquired facilities. (§ 602.1711–1(b)(3) of this subchapter.)

3. Add new § 590.313, revoke § 590.354 and revise § 590.706–6, as follows:

§ 590.313 Liquidated damages.

Where a contractor's application for remission of liquidated damages is to be processed to the Comptroller General, pursuant to § 1.313(d) of this title, appropriate action will be taken in accordance with the procedures prescribed in § 591.452 of this subchapter, except that:

(a) In the event that all alternative remedial actions available to the contractor under this contract have not been exhausted, e.g., unresolved claims for extensions of delivery schedules, the administrative report and the contracting officer's statement required by § 591.452 (a) of this subchapter will identify the alternatives and state the actions being taken.

(b) In the event that all alternative remedial actions available to the contractor under the contract have been exhausted, the administrative report and the contracting officer's statement will include information as to the reasonableness of the rate of assessment of liquidated damages, in relation to the total contract price, and a summary of the actions taken to mitigate the assessment of the damages.

(c) The proposed letter to The Comptroller General prepared by the technical service for the signature of the Assistant Secretary of the Army (Logistics), as prescribed in § 591.452(b)(1) of this subchapter, will include a brief summary of the information required by paragraphs (a) or (b) of this section, as the case may be, together with a recommendation as to whether the contractor's application should be granted or denied.

§ 590.354 Use of Certificates of Necessity and Expediting Production Funds. [Revoked]

§ 590.706–6 Partial set-asides.

See § 1.706–6 of this title.

4. In § 590.707–3, revise paragraphs (d) and (e); revoke § 590.707–5; and revise paragraph (b) in § 590.752, as follows:

§ 590.707–3 Defense subcontracting in small business programs.

* * * * *

(d) Contractors should be requested to submit their semiannual report (DD Form 1140 (Semiannual Report of Participating Companies)) for the 6-month period, January through June, by September 1; and their report for the 6-month period, July through December, by March 1. Contracting Officers of the technical service having Armed Services Procurement Planning Officer (ASPPO) cognizance of the contractor, or where an inspection interchange agreement exists, shall be responsible for notifying contractors, not later than 1 August and 1 February, of the date for submission of their reports. Such reports will be mailed by participating contractors to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Army Small Business Advisor.

(e) Copies of DD Form 1140 will be supplied directly to participating contractors by the Army Small Business Advisor, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C.

§ 590.707–5 Maintenance of records. [Revoked]

§ 590.752 Preparation and transmittal of "Data on Proposed Procurement Action" (DA Form 1877) (Reports Control Symbol CSOLD–866).

* * * * *

(b) *Contracting Officers Performing the Functions of Small Business Specialists.* Contracting officers of field purchasing offices under the jurisdiction of the ZI Armies, the Military District of Washington, U.S. Army, the National Guard Bureau, The Adjutant General, and the Defense Atomic Support Agency will accomplish, in duplicate, DA Form 1877 in its entirety on all proposed classified and unclassified procurements of $5,000 or more, whether advertised or negotiated. Contracting officers will sign items 22 and 23, respectively. The original of the DA Form 1877 will be made a part of the contract file (§ 590.311), and the copy of the DA Form 1877 will be submitted to the small business advisor in the headquarters of the respective procuring activity.

5. Add new Subpart K to Part 590, as follows:

Subpart K—Qualified Products

§ 590.1101 General.

See § 1.1101 of this title.

§ 590.1102 Justification for establishment of a qualified products list.

Where one or more of the conditions listed in § 1.1102 of this title exist, requirements for qualification of the product may be included in the specifications. Specifications shall be cleared with the Deputy Chief of Staff for Logistics as prescribed by AR 715–50.

6. Revise §§ 591.202, 591.206–51, and 591.250(a), as follows:

§ 591.202 Methods of soliciting bids.

(a) *Issue of invitations for bids.* Invitations for bids shall be issued by a contracting officer, or by an agency or individual authorized by him. The contracting officer shall, however, make each award and sign each contract.

(b) *Time allowed before opening.* Invitations for bids, will as a rule, allow 30 days to intervene between the date of issuance and the date of opening bids. A shorter period may be allowed, but no period of less than 10 days will be designated, except in case of emergency. The existence of such emergency will be determined by the contracting officer, and the copy of the invitation furnished the Industrial Assistance and Procurement Information Office, Office of the Deputy Chief of Staff for Logistics, Department of the Army (§ 591.250(a)), will bear on its face the following statement and appropriate reasons signed by the contracting officer: "The date shown hereon for the opening of bids cannot be a later date for the following reasons."

§ 591.206–51 Information copies.

In addition to the requirements of § 591.206–50(a), a copy of the synopsis will be forwarded by mail to the Industrial Assistance and Procurement Information Office, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington 25, D.C.

§ 591.250 Distribution of invitations for bids and requests for proposals.

* * * * *

(a) *Industrial Assistance and Procurement Information Office.* One copy of every unclassified request for proposals issued in the United States, other than Alaska and Hawaii, which is subject to being published in the Department of Commerce publication "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards" (§§ 2.206–1 and 3.106–1 of this title) and one copy of every unclassified invitation for bids issued in the United States, other than Alaska and Hawaii, and one copy of every amendment to each such request for proposals or invitation for bids, shall be sent directly, on the date issued, to the Industrial Assistance and Procurement Information Office, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington 25, D.C. Letters of Transmittal are not necessary.

7. Revoke § 591.303; revise § 591.350; in § 591.403, revise paragraph (i)(1); and revise § 591.404, as follows:

§ 591.303 Modification or withdrawal of bids. [Revoked]

§ 591.350 Assistance in preparing bids.

Persons employed by or serving with the Department of the Army shall not provide assistance under any circumstances to bidders in the preparation of bids. General information which would not be prejudicial to other bidders, however, may be furnished upon request, e.g., explanation of a particular contract clause or particular condition of the schedule in the invitation for bids.

§ 591.403 Rejection of bids.

* * * * *

(i) *Not responsible bidders.* (1) The lowest bid as to price may be rejected by the contracting officer if the bidder is determined to be not responsible. The elements to be considered in determining responsibility are set forth in Subpart I, Part 1, of this title.

§ 591.404 Minor informalities or irregularities in bids.

A bidder who fails to furnish (a) information regarding his aggregate number of employees, (b) his status as a source of supply as defined in § 1.201–9 of this title and § 590.201–9 of this subchapter, or (c) the place of manufacture of the supplies being purchased, will be permitted to make such representations after the bid opening but prior to award.

8. Revise §§ 591.405–2, 591.405–3, and 591.405–50, and add new §§ 591.405–51 and 591.405–52, as follows:

§ 591.405–2 Mistakes disclosed after opening and prior to award other than obvious or apparent mistakes of a clerical nature.

(a) In addition to the authority delegated in § 2.405–2(b) of this title, authority to make the determination set forth in § 2.405–2(a)(1) of this title has been delegated to the head of each procuring activity with power to redelegate such authority to the chiefs of purchasing offices, as defined in § 590.251–1, having legal counsel available, without power of further redelegation.

(b) Where it is known or apparent that resolution of an obvious or apparent mistake cannot be accomplished prior to expiration of the bid acceptance time, the contracting officer will seek appropriate extensions of bid acceptance periods from the bidder alleging the mistake and any other bidders whose bids are within the zone of consideration.

(c) The action taken to verify bids, as required by § 2.405–2(d) of this title, must be sufficiently complete to either reasonably assure the contracting officer that the bid, as confirmed, is without error, or elicit the anticipated allegation of a mistake by the bidder. To insure that the bidder concerned will be put on notice of a mistake suspected by the contracting officer, the bidder should be advised, as is appropriate to the particular circumstances of the case, of (1) the fact that his bid is out of line with the next low or with the other bids, (2) important or unusual characteristics of the specifications, (3) changes in requirements from previous purchases of a similar item, or (4) such other data as may be proper for such disclosure to the bidder as will give him notice of the mistake which the contracting officer suspects. Where the initial confirmation of a bid of a bidder does not dispel the suspicion of an error, the contracting officer should seek further verification or should employ other means deemed appropriate to resolve the question of a possible error in the bid.

(d) Where circumstances require such prompt action as to preclude transmittal of the case by mail, contracting officers will use telegraphic, telephonic, or radio means of communicating with the appropriate higher authority, furnishing, so far as possible, the data required by § 2.405–2(e) of this title.

§ 591.405–3 Disclosure of mistakes after award.

(a) *Information to be furnished heads of procuring activities.* A mistake in bid or proposal alleged or disclosed after award shall be forwarded through channels to the head of the procuring activity concerned and shall include the following information:

(1) The data listed in § 2.405–2(e)(1) through (4) of this title;

(2) A copy of the quotation or proposal, submitted by the contractor, where the procurement was negotiated, in lieu of the invitation for bids specified in § 2.405–2(e)(2) of this title;

(3) A copy of the contract and any change orders or supplemental agreements thereto; and

(4) A signed statement by the contracting officer (i) describing the supplies or services involved, (ii) specifying how and when the mistake was alleged or disclosed, (iii) summarizing the evidence submitted by the contractor and any additional evidence considered pertinent, (iv) stating in cases where only one bid or proposal was received, the most recent contract price for supplies or services involved, or in the absence of a recent contract for the item, the contracting officer's estimate of a fair price for the item, (v) setting forth his opinion whether a bona fide mistake was made and whether he was, or should have been, on constructive notice of any error in the bid or proposal prior to the award, together with the reasons for or data in support of such opinion, (vi) setting forth his recommendation in the matter and the basis therefor, and (vii) disclosing the status of performance and payments under the contract including contemplated performance and payments, if applicable.

(b) *Designation of a principal assistant.* Heads of procuring activities may designate in writing the Deputy Head, Assistant Head, Chief of Staff or the Assistant Chief of Staff, G–4 of the procuring activity as their principal assistant with authority to act for them in rescinding or reforming contracts and in denying relief requested by contractors, as set forth in this section. Heads of procuring activities will forward a copy

of the instrument designating their principal assistant to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch and to The Quartermaster General, Department of the Army, Washington 25, D.C., Attn: U.S. Army Property Disposal Center.

(c) *Authority to rescind or reform contracts.* Heads of procuring activities and their designated principal assistants are authorized, without power of further redelegation, to rescind or reform contracts where the evidence is clear and convincing that a mistake in the bid or proposal was made by the contractor, the mistake was mutual or the contracting officer was or should have been on constructive notice of the error prior to the award, and it is determined that the contract price should be increased in a procurement contract or decreased in a sales contract; or that the contract or the item of supply or service involved in the error should be rescinded, provided that:

(1) In a contract to be rescinded in its entirety, the total contract amount does not exceed $500;

(2) In reforming a procurement contract (i) the resultant delegation of an item from the contract does not reduce the total contract amount by more than $500 or (ii) the resultant increase in price does not exceed $500 and does not cause the corrected price to be more than the price of the next higher bid or proposal for the item of supplies or services concerned, if such higher bid or proposal was submitted;

(3) In reforming a sales contract (i) the resultant deletion of an item from the contract does not reduce the total contract amount by more than $500 or (ii) the resultant decrease in price does not exceed $500 and does not cause the corrected price to be less than that of the next lower bid or proposal for the item of supplies or services concerned, if such lower bid or proposal was submitted.

(d) *Relief requested under the extraordinary emergency authority.* Where applications for relief from mistakes in bids or proposals are submitted by contractors under the provisions of the extraordinary emergency authority granted by the Act of 28 August 1958 (Pub. Law 85-804); 72 Stat. 972; 50 U.S.C. 1431-1435 and Executive Order No. 10789, dated 14 November 1958 (23 F.R. 8897), heads of procuring activities and their designated principal assistants are authorized, without power of further redelegation, to grant such relief under the provisions of paragraph (c) of this section, provided the request for relief meets the conditions stated therein.

(e) *Authority to deny contractor relief.* Heads of procuring activities and their designated principal assistants are authorized, without power of further redelegation, to deny relief requested by a contractor, due to an alleged mistake, where the amount of relief requested does not exceed $500 and it is determined the evidence is not clear and convincing (1) that a mistake in the bid or proposal was made by the contractor, or (2) that the mistake was mutual or the contracting officer was or should have been on constructive notice of the error prior to award of the contract.

(f) *Distribution of administrative determination.* The contracting officer will attach a copy of such determination and findings to all copies of the contract modification and distribute such determination and findings as required by §§ 591.405-52 (b), (c) and (d) and 591.406-5(a).

§ 591.405-50 Actions referred to higher authority.

Mistakes in bids requiring action by higher authority or mistakes in bids which the Head of the Procuring Activity desires that the determinations be made by higher authority shall be forwarded to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, where the alleged mistake relates to a procurement action, or to The Quartermaster General, Department of the Army, Washington 25, D.C., Attn: U.S. Army Property Disposal Center, where the alleged mistake relates to a sales action.

(a) Where the mistake in bid is alleged prior to award of the contract, the file forwarded to higher authority shall include, in addition to the supporting data required by § 2.405-2(e) of this title, a statement "that an award has not been made."

(b) Where the mistake in bid is alleged after award of the contract, the file forwarded to higher authority shall include, in addition to the supporting data required by § 591.405-3(a), a statement by the Head of the Procuring Activity, or his designated principal assistant, setting forth the reasons and basis for forwarding the alleged mistake to higher authority for determination (§ 591.452).

(c) Notice of significant change in contract status affecting a mistake in bid case being considered at a higher echelon will be forwarded promptly, through normal channels, to the office considering the mistake.

§ 591.405-51 Record of actions taken.

Contracting officers will insure that the contract file is fully documented to provide a complete history of the actions taken under the provisions of § 2.405 of this title and § 591.405.

§ 591.405-52 Distribution of administrative determinations and Comptroller General decisions.

(a) *To Headquarters, Department of the Army.* Heads of procuring activities will forward to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, in the case of procurement matters, and to The Quartermaster General, Department of the Army, Washington 25, D.C., Attn: U.S. Army Property Disposal Center, in the case of sales matters, by the 10th of each month, the following information relative to each administrative determination made during the preceding calendar month:

(1) A copy of the contracting officer's statement described in § 2.405-2(e)(5) of this title; a copy of the administrative determination referred to in § 2.405-2(a) of this title; and such additional data as are material to the determination, where the action was taken under the authority stated in § 2.405-2(a) of this title and § 591.405-2(a) of this Part; and

(2) A copy of the contracting officer's statement described in § 591.405-3(a)(4); a copy of the administrative determination referred to in § 591.405-3 (c) and (d); and such additional data as are material to the determination, where the action was taken under the authority stated in § 591.405-3 (c) and (d).

(b) *To Disbursing Officer.* The contracting officer will furnish a copy of the administrative determination, or a copy of the decision of the Comptroller General, if any, respecting a mistake in bid, to the disbursing officer to support any payment made or to be made by him.

(c) *To General Accounting Office with Standard Form 1036.* (§ 591.406-5).

(d) *To Contract Files.* (§ 590.311.)

9. Add new paragraph (c) to § 591.406; revise § 591.406-1; revise paragraph (c) in § 591.450; and revoke Subpart E, Part 591, as follows:

§ 591.406 Award.

* * * * *

(c) *Reasonableness of bids.* In the evaluation of bids, and prior to making an award, contracting officers will insure that the prices to be accepted are fair and reasonable on the basis of valid criteria, such as, but not limited to: prices paid on past procurements; price trend information from the daily press, trade, or Government publications; current market prices for comparable quantities; extent of competitive pricing; cost analysis of similar procurements; and current prices being paid by other purchasing offices for the same or similar items. The contract file will be documented in accordance with the provisions of § 590.311 to reflect the actions taken to determine the reasonableness of the bid prices.

§ 591.406-1 Responsible bidder.

If the low bidder's qualifications to perform the proposed contract are not known to the contracting officer, the bidder's qualifications shall be checked and if found unsatisfactory, award shall not be made. Qualification checks shall consist of both financial and technical evaluation of a supplier's capacity to perform the contract successfully. Subpart I, Part 1, of this title and Subpart I, Part 590 of this subchapter set forth the policy of the Department of the Army with respect to the selection of contractors.

§ 591.450 Distribution of bids and abstracts.

* * * * *

(c) *Industrial assistance and Procurement Information Office.* (1) If it is decided to cancel an invitation before the opening of bids, the Industrial Assistance and Procurement Information Office will be advised of the cancellation by letter, amendment to the invitation, or telegram.

(2) Within 3 days after all bids have been tabulated, an abstract of bids stamped "Advance Information Copy Only—Final Awards Have Not Been Made" will be mailed to the Industrial

Assistance and Procurement Information Office.

(3) Within 3 days after all awards have been made on an invitation for bids, a copy of the abstract of bids received will be mailed to the Industrial Assistance and Procurement Information Office, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Old Post Office Building, 12th Street and Pennsylvania Avenue, NW., Washington 25, D.C. This copy will contain the date of each award and the contract or purchase order numbers relating thereto.

(4) If all bids received are rejected, a complete summary of the reasons for such rejection will be furnished with the copy of the abstract of bids forwarded to the Industrial Assistance and Procurement Information Office. This statement will be detachable from the abstract of bids.

Subpart E—Qualified Products [Revoked]

10. Revise paragraph (e) in § 592.213–2; revise paragraph (d) in § 592.213–3; and revise § 592.216–3, as follows:

§ 592.213–2 Application.

* * * * *

(e) The stocks on hand and due in from procurement of any make and model of equipment proposed for standardization must constitute a significant portion, normally at least 15 percent, of the total stocks of the equipment in the supply system and due in from procurement. On items for which the Department of the Army provides maintenance and repair parts support for Air Force equipment, the combined assets of the two departments may be considered in computing total stocks.

§ 592.213–3 Limitation.

* * * * *

(d) After approval by the Assistant Secretary, the Chief of the Technical Service concerned shall, prior to each second anniversary date of such approval, review the requirement for standardization to determine whether the approval should be continued, revised, or cancelled, and submit the results of this review, over his signature or that of his Deputy, to the Advisory Committee on Procurement Without Advertising of Technical Equipment and Components. Where attrition and negotiated procurements during the previous two-year period result in a change in the total assets such that the product of one or more of the suppliers falls below the 15 percent figure, the standardization approval may be continued to permit an additional procurement by negotiation to be proposed to the Assistant Secretary of the Army (Logistics) for approval. The supplier may be retained as a selected source for procurement standardization by reason of the fact that he was the successful offeror, even though the quantity procured may have been insufficient to re-establish him as one of those whose product is within the range of 15 percent of total assets. However, if a supplier is unsuccessful in any subsequent procurement and assets of his product in the supply system continue to remain below 15 percent, standardization approval of such supplier will be considered for cancellation by the Committee. If the Committee is of the opinion that the approved standardization should be revised or cancelled, appropriate recommendations will be made to the Assistant Secretary of the Army (Logistics).

§ 592.216–3 Limitation.

10 U.S.C. 2304(a)(16) will not be used if other sections requiring Secretarial approval can be cited. The use of 10 U.S.C. 2304(a)(16) will be restricted primarily to the types of procurement which cite Procurement of Equipment and Missiles, Army (PEMA) 4200 funds for industrial mobilization purposes (layaway, industrial preparedness measures) and Operation and Maintenance, Army (O&M) funds for maintenance of plants and equipment. Where the proposed procurement of mobilization base items is substantially larger than the quantity which must be awarded in order to meet the objectives stated in the applicable determinations under 10 U.S.C. 2304(a)(16), that portion not required to meet such objectives shall ordinarily be obtained through formal advertising or by negotiation under another appropriate section of 10 U.S.C. 2304(a).

11. In § 592.301, revise paragraph (b)(2); and in § 592.306, revise paragraph (b), as follows:

§ 592.301 Nature of determinations and findings.

* * * * *

(b) *Class determinations and findings.*

* * * * *

(2) Class determinations and findings are generally appropriate only when multiple purchases are to be made within the designated class during a specified period of time. The data supporting the designation of a class should include all facts which establish clearly the relationship of the supplies, services, or contracts within the class. Each class determination and findings will combine only those supplies or services which are so related as to constitute a logical and distinctive category. The following additional factors are listed as a guide in determining whether a class determination and findings is appropriate:

(i) Supplies or services covered by each class determination and findings will be grouped according to function rather than application.

(ii) The circumstances justifying negotiation of all purchases under the class are of a continuing nature.

(iii) Numerous purchase actions under each class are expected during the time period covered by the determination and findings. For further guidance relating to identity of research and development classes, see § 592.311–3(b).

§ 592.306 Procedure with respect to determinations and findings.

* * * * *

(b) Requests for approval of determinations and findings of authority to negotiate submitted for the signature of the Assistant Secretary of the Army (Logistics) will be signed by or for the Head of the Procuring Activity and shall include the following information in support of the requested determination:

(1) Complete statement of facts on the proposed procurement. The statement should contain sufficient descriptive information to enable the Assistant Secretary of the Army (Logistics) to make the determination required by 10 U.S.C. 2304(a). The following minimum data should be contained in this statement, except that additional data required by § 592.211–3(c) (1) through (7) shall be included when the determination is to be made under § 3.211 of this title and § 592.211:

(i) Detailed description in nontechnical language of the supplies or services to be procured.

(ii) Inclusion of the following statement in requests for determinations and findings in the procurement of supplies:

"The proposed procurement is supported by valid requirements and the required program approvals have been obtained."

(iii) Expected starting and completion dates of the contracts and the estimated dollar amount of the purchase, for individual determinations and findings.

(iv) Estimated total number of purchases with the estimated total dollar amount for the time period to be covered, for each class determination and findings.

(v) Designation of funds by type and source, i.e., Research, Development, Test, and Evaluation, Army (RDT & E); Procurement of Equipment and Missiles, Army (PEMA); Operation and Maintenance, Army (O & M); other Department or Government agency funds. When PEMA funds are designated, the date, page number, and item number of the current Material Program Annex VI—Procurement Schedules will be cited. When O & M funds are designated, justification will be included for the proposed use of such funds. When Military Assistance Program funds are designated, the common item order numbers, quantity, and country will be indicated. Where more than one type of funds will be used, the amount applicable to each category shall be indicated.

(vi) Citation of both the appropriate fiscal year and funds, where the funds to be used are chargeable to a specific fiscal year.

(vii) Inclusion of the following statement where No Year Funds will be used:

The estimated cost of this procurement is $------ chargeable to (designate the appropriation) No Year Funds.

(viii) Date of the original contract, name of the contractor, and total funds obligated to date, where the purchase action submitted for a determination and findings is a contract modification.

(ix) Type of contract which is anticipated will be utilized, i.e., fixed-price, incentive, cost-plus-a-fixed-fee, etc. If it is anticipated that a time and material contract or a labor-hour contract will be used, a copy of the determination required by §§ 3.405–1 or 3.405–2 of this title will be inclosed. Type of contract

will not be listed for class determinations and findings.

(x) Statement that there will be competition on the proposed procurement. Where competition is to be restricted, i.e., purchases in the interest of national defense or industrial mobilization, such supporting data will include the names and locations of the suppliers to be solicited. Where the request is for a class determination and findings, the supporting data will include the names and locations of the suppliers to be solicited for all major items to be procured under the authority granted by such determination and findings. Supporting data accompanying each determination and findings will also explain the procedures to be used in soliciting proposals and conducting negotiations where such procedures will vary materially from procedures prescribed in Subchapter A, Chapter 1 of this title and this subchapter, i.e., competition, price, competency, delivery time and transportation. In such cases the explanation should contain the criteria and factors under which the proposal will be evaluated. In lieu of the statement concerning competition, where solicitation is to be limited to a single source, the name and location of the supplier and a brief explanation why the solicitation is to be limited will be included.

(xi) Reason why procurement of the supplies or services by formal advertising is not feasible. Summarize such pertinent facts as are available and relevant to support the determinations to be made in paragraph 2 of the determinations and findings.

(2) Data indicating applicability of 10 U.S.C. 2304(a). This data should demonstrate that the property, work, and circumstances are of the nature described by the pertinent section of 10 U.S.C. 2304(a)(1) et seq. Department of the Army approved programs and projects should be cited if they serve to identify the procurement as research and development, interests of industrial mobilization, etc. Previous contracts, status of Government tooling and facilities, and mobilization planning status are examples of other data which serve to identify the procurement with the cited section of 10 U.S.C. 2304(a)(1) et seq.

(3) Data supporting designation of any classes for class determinations and findings.

(4) Recommendation for signature of the determinations and findings.

12. In § 592.650–3, revise paragraphs (c), (d)(1), (e)(1), and (f)(3), as follows:

§ 592.650–3 Use in conjunction with monthly charge accounts.

* * * * *

(c) *Limitation.* There is no limit to the total dollar value of the requests which may be placed against a charge account during an agreed billing period. Individual calls or oral requests to be placed against charge accounts will be limited to $2,500 or less, except for perishable subsistence. This is not meant to preclude the use of other authorized purchase order forms.

(d) *Establishment of charge account.* * * *

(1) Authorization to the vendor to furnish supplies or services, falling within a general category if and when requested by the contracting officer or his authorized representative during a specified period and within a stipulated aggregate amount, if any, provided, that no individual request will exceed $2,500;

* * * * *

(e) *Requests placed against charge accounts.* The following procedures shall govern:

(1) Individual requests will not be placed against charge accounts until appropriate negotiations have been conducted except, where the order is for $100 or less and the price is known to be reasonably competitive. If authorized by the contracting officer, ordering officers may place individual requests not to exceed $100. Contracting officers may authorize selected purchasing personnel within their organizations to place oral calls or informal requests in amounts exceeding $100 against charge accounts. Where possible, competition will be secured and the records will indicate the sources solicited and the quotations received. If the low quotation is not made by a charge account vendor, an individual purchase order will be issued, or a new charge account established.

(i) The competition required above, in the purchase of fresh fruits and vegetables for the market centers, is effected by purchasing personnel (sight buyers) of the Military Subsistence Supply Agency (MSSA) in the produce market areas through oral solicitations.

(ii) Purchasing personnel placing oral calls or informal requests are not ordering officers.

* * * * *

(f) Preparation of Purchase Order (DD Form 1155). * * *

(3) The following statement will be inserted: "Authority—Individual requests made against this charge account (not exceeding $2,500 per request) were negotiated in accordance with provisions of 10 U.S.C. 2304(a)(3)."

13. In § 592.650–4, revise paragraph (c); revise paragraphs (b)(12) and (e) in § 592.650–5; and add new § 594.106, as follows:

§ 592.650–4 Use for consolidation of deliveries into one order.

* * * * *

(c) The $2,500 limitation set forth in § 592.650–3(d) does not apply to the consolidation of deliveries into one order.

§ 592.650–5 Use as a receiving and inspection report.

* * * * *

(b) Upon receipt of the items provided for in the order, the accountable property officer or his authorized representative shall complete the following:

* * * * *

(12) Date, signature, grade and designation of acceptor. Note: The block titled "Authorized Government Representative" contains a certificate that the supplies or services were inspected and accepted. This certificate may be signed by the individuals listed in paragraph 309, AR 37–107 (Administrative regulations pertaining to processing and payment of commercial accounts), ordering officers or commissary officers. When veterinarian personnel are required to inspect food supplies, the inspector will sign either the "tally in" or DD Form 1155 (Copy No. 7) retained by the commissary officer. The commissary officer will sign the original receiving report (Copy No. 8).

* * * * *

(e) Receiving reports will be accomplished within the time specified in AR 715–29 (Administrative regulations pertaining to processing of receiving reports).

§ 594.106 Federal Supply Schedule with multiple award provisions.

Selection of equipment by users from a Federal Supply Schedule offering multiple award provisions will be governed generally by price. However, a using activity may request purchase of a particular make, model, or brand name item by providing the contracting officer with a written justification supporting the selection of such item. When an item listed on the Federal Supply Schedule which is of foreign origin is requested, the contracting officer prior to ordering the item shall make a determination that either as provided in § 595.103–2 of this subchapter, there is no known domestic item which can be used as a reasonable substitute for the particular foreign item or as provided in § 6.104–4 of this title, the cost of the domestic item is unreasonable.

(a) When the total purchase price of the order is in excess of $2,500, using activities requesting a particular make, model, or brand name item, other than the lowest priced item, will furnish to the contracting officer the supporting justification stated above for use in documenting the contract file. Such justification may include but is not limited to the following:

(1) Time required for delivery.

(2) Differences in performance characteristics. The justification should describe the desirable features of the brand name item requested (i) which other similar items do not have, (ii) which are considered essential to the operation of the using activity, or (iii) which will increase the operational efficiency of the using activity.

(3) Compatibility with existing equipment or systems. Where a particular brand name, equipment, or system has already been installed at the using activity and additional equipment is required, purchase of a particular brand name item may be necessary to be compatible with the existing equipment or system. However, this justification shall not be used to purchase additional items of a particular brand name solely because items of that particular brand name are already in use.

(4) Service. Where adequate repair services or repair parts are not available for particular items listed in the schedule, other items for which adequate

services or parts are available may be purchased.

(5) Trade-in allowance offered on equipment on hand. For evaluation purposes, when an item is traded in for an item of foreign origin, the percentage factor as required by § 6.104–4 of this title will be added to the price of the foreign item prior to subtracting the trade-in allowance.

(6) Any other factors which may justify the use of a particular brand name item.

(b) When the total purchase price of the order is under $2,500, using activities requesting a brand name item, other than the lowest priced item available, will indicate the justification therefor on their Purchase Request and Commitment (DA Form 14–115) or similar form. However, a detailed justification, as required by paragraph (a) of this section, need not be furnished.

14. Revise Part 595 to read as follows:

PART 595—FOREIGN PURCHASES

Sec.

Authority: §§ 595.000 to 595.701–3 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 595.000 Scope of part.

See § 6.000 of this title.

Subpart A—Buy American Act—Supply and Service Contracts

§ 595.100 Scope of subpart.

See § 6.100 of this title.

§ 595.103 Exceptions.

§ 595.103–2 Nonavailability in the United States.

(a) The Secretary of the Army has delegated to the Deputy Chief of Staff for Logistics, Department of the Army, authority (1) to make determinations under the provisions of the "Buy American Act," upon a proper showing of facts, that certain articles, materials, or supplies, of the class or kind to be used by the Department of the Army (or the articles, materials, or supplies from which they are manufactured), are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, and (2) to authorize the purchase from foreign sources, and use by the Department of the Army of such articles, materials or supplies (or the articles, materials, or supplies from which they are manufactured), as are determined, after a proper showing of fact, to be not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(b) This authority has been successively redelegated to (1) the Chief, Procurement Division, Office of the Deputy Chief of Staff for Logistics, and (2) to the heads of procuring activities, as defined in § 1.201–4 of this title, with power of redelegation, provided however, that such authority shall not be redelegated below the level of a Deputy to the Head of a Procuring Activity, Chief of Staff, or a General Officer assigned to procurement and personally selected by the Head of a Procuring Activity except that the Head of a Procuring Activity is hereby authorized to delegate in writing the authority to make such determinations, where the aggregate amount of the purchase does not exceed $10,000 to such contracting officers under his command as he may deem appropriate.

(c) The exception, set forth in § 6.103–2 of this title, shall be applied and used only after determinations in writing have been made by such individuals as have been delegated authority in accordance with paragraphs (a) and (b) of this section. Requests for such determinations shall be forwarded, through channels, to the appropriate authority and shall contain the following information:

(1) description of the item or items, including unit and quantity;

(2) estimated cost, including duty and transportation costs to destination;

(3) country of origin (Subpart D, Part 6 of Subchapter A of this title regarding restrictions on purchases from Soviet-controlled areas);

(4) name and address of proposed contractor;

(5) brief statement of the necessity for the procurement; and

(6) statement of facts establishing the nonavailability of a similar item or items of domestic origin. If there is no known domestic item or items which can be used as a reasonable substitute, a statement to this effect shall be made.

(d) The required determination shall be prepared in substantially the following form:

DETERMINATION

Date: _____

Pursuant to the authority contained in Section 2, Title III of the Act of March 3, 1933, popularly called the Buy American Act (41 U.S.C. 10a–d), and authority delegated to me by _____, I hereby find:

a. (Description of the item or items to be procured, including unit, quantity and estimated cost inclusive of duty and transportation costs to destination.)

b. (Brief statement of the necessity for the procurement.)

c. (Statement of facts establishing the nonavailability of a similar item or items of domestic origin.)

Based upon the above showing of fact, it is determined that the above described item(s) is (are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it (they) is (are) manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that procurement be made from domestic sources and that it be of domestic origin is not applicable to the above described procurement, since said procurement is within the nonavailability exception stated in the Act. Authority is granted to procure the above described item(s) of foreign origin (country of origin) at an estimated total cost of $_____, including duty and transportation costs to destination.

_____
(Signature)

(e) The signed copy of the determination will be attached to the voucher upon which payment is made.

(f) Heads of procuring activities will forward once a month, through channels, one copy of each determination made by them or by their delegates. Such determinations shall be forwarded by the heads of procuring activities in sufficient time to reach the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch by the 15th of the month following the month during which the determinations were made.

§ 595.103–5 Canadian supplies.

(a) *Listed supplies.* The Assistant Secretary of the Army (Logistics) has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act in the evaluation of bids or proposals offering Canadian end products for procurements of supplies listed in this section. Bids and proposals offering Canadian end products will be evaluated on a parity with domestic bids (without addition of a price differential or duty) in procurements of (1) all items purchased under contracts for experimental, developmental and research work and (2)

all items classified in the following Federal Supply Classification Groups and Classes purchased under supply contracts.

Group 10 Weapons (All Classes).
Class 1285 Fire Control Radar Equipment, except Airborne.
Group 13 Ammunition and Explosives (All Classes).
Class 1420 Guided Missile Components.
Class 1430 Guided Missile Remote Control Systems.
Class 1440 Launchers, Guided Missiles.
Class 1510 Aircraft, Fixed Wing.
Class 1520 Aircraft, Rotary Wing.
Class 1550 Drones.
Class 1560 Airframe Structural Components.
Group 16 Aircraft Components and Accessories (All Classes).
Group 19 Ships, Small Craft, Pontoons and Floating Docks. 1940—Small Craft. 1945—Pontoons and Floating Docks.
Group 22 Railway Equipment (All Classes).
Group 23 Motor Vehicles, Trailers, Cycles (All Classes).
Group 24 Tractors (All Classes).
Group 38 Construction, Mining, Excavating (All Classes).
Group 39 Materials Handling Equipment (All Classes).
Group 49 Maintenande and Repair Shop Facilities (All Classes).
Group 54 Prefabricated Structures.
Group 55 Lumber.
Group 56 Construction and Building Materials.
Group 58 Communication Equipment (All Classes).
Group 59 Electronic Equipment Components (All Classes).
Group 66 Instruments and Laboratory Equipment (All Classes).
Group 69 Training Aides and Devices (All Classes).
Group 74 Office Machine and Data Processing.
Class 7440 Automatic Data Processing System.
Class 8140 Ammunition Boxes, Packages and Special Containers.

(b) *Non-listed supplies.* The Assistant Secretary of the Army (Logistics) has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act in the evaluation of bids or proposals offering Canadian end products in the procurement of supplies other than those listed in paragraph (a) of this section, provided that applicable duty shall be included in evaluating such bids or proposals, whether or not a duty-free entry certificate will be issued.

(c) *Subcontract bids.* (1) Subcontract bids, offering Canadian end products included in the list set forth in paragraph (a) of this section, or components thereof, shall be evaluated by potential contractors, contractors, and by contracting officers to such extent as provided in the contract, on a parity with domestic subcontract bids, i.e., without the addition of a duty or price differential.

(2) Subcontract bids, offering Canadian end products other than those included in the list set forth in paragraph (a) of this section, or components thereof, shall be evaluated by potential contractors, contractors, and by contracting officers to such extent as provided in the contract, on a parity with domestic subcontract bids, except that any applicable duty shall be added, whether or not a duty-free entry certificate may be issued.

§ 595.104 Procedures.

§ 595.104–4 Evaluation of bids and proposals.

Proposed procurements requiring submission for Secretarial determination of awards, in accordance with § 6.104–4(c) of this title, will be forwarded, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch. Each submission, in addition to complete information on all factors pertinent to the required Secretarial action, will contain a proposed award recommendation. Appropriate provision will be made by purchasing offices for extending acceptance dates of bids or offers, as required, to permit sufficient time for transmission and Secretarial consideration.

§ 595.104–5 Contract clause.

In addition to the clause prescribed by § 6.104–5 of this title, the additional special provisions set forth in this section shall be included in all contracts for supplies; experimental, developmental, or research; and in contracts for services when applicable, except that these provisions need not be included in contracts exclusively for articles, materials, or supplies for use outside the United States, in contracts for items not listed in § 595.103–5, and in contracts involving procurements exempt under the provisions of § 595.504(c).

(a) *Supply contracts.* The following special provisions shall be included in supply contracts:

"The following articles, materials, and supplies which are to be acquired under this contract are listed in paragraph 6–103.5 of the Army Procurement Procedure (insert Federal Supply Classification Groups and Classes of Supplies being procured, as listed in APP 6–103.5). Accordingly, bids or proposals offering Canadian end products, as defined in paragraph 6–101(e) of the Armed Services Procurement Regulation, for such articles, materials and supplies acquired under this contract will be treated as domestic bids or proposals, as defined in paragraph 6–101(g) of that regulation."

(b) *Experimental, development or research contracts.* The following special provision shall be included in experimental, developmental and research contracts:

All articles, materials and supplies which are to be acquired under this contract are subject to the provisions of paragraph 6–103.5 of the Army Procurement Procedure. Accordingly, bids or proposals offering Canadian end products, as defined in paragraph 6–101(e) of the Armed Services Procurement Regulation, for articles, materials and supplies acquired under this contract will be treated as domestic bids or proposals, as defined in paragraph 6–101(g) of that regulation.

(c) *Service contracts.* One of the provisions set forth in paragraphs (a) and (b) of this section will be included in service contracts when applicable.

§ 595.105 List of excepted articles, materials, and supplies.

Additional determinations pursuant to § 6.103–2 of this title, covering individual procurements, will be in accordance with § 595.103–2.

Subpart B—Buy American Act—Construction Contracts

§ 595.200 Scope of subpart.

See § 6.200 of this title.

§ 595.204 Procedures.

See § 6.204 of this title.

§ 595.204–3 Evaluation of bids and proposals.

Requests for Secretarial decisions as to proposed awards, referred to in § 6.204–3(c) of this title, will be forwarded, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch. Each submission will include complete information on the conditions set forth in § 6.204–3(c) of this title and a copy of the bid or proposal which is the basis of the proposed award.

§ 595.206 List of excepted articles, materials, and supplies.

Additional determinations pursuant to § 6.203–1 of this title covering individual contracts for construction will be made by those individuals who have been so authorized in accordance with § 595.103–2(b). Such determinations will be prepared substantially in the format set forth in § 595.103–2(d) and a copy will be forwarded as provided in § 595.103–2(f).

Subpart C—Appropriation Act Restrictions on Procurement of Foreign Supplies

§ 595.300 Scope of subpart.

See § 6.300 of this title.

§ 595.304 Procedures.

See § 6.304 of this title.

§ 595.304–1 Procurement of food, clothing, spun silk yarn for cartridge cloth, or items containing mohair or cotton.

Where prices for domestic supplies are unreasonable within the purview of § 6.304–1 of this title, the contracting officer will forward a request for Secretarial determination, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch. Each such request, in addition to complete information on all factors pertinent to the requested action, will contain a proposed determination prepared for Secretarial signature. The format of the determination in § 595.103–2(d) of this Part may be used, provided that required changes are made therein (such as, modification of the statutory citation and modification of the determination and findings in accordance with the requirements of the exception to the appropriation act restriction, as set forth in § 6.303(g) of this title.

Subpart D—Purchases From Soviet-Controlled Areas

§ 595.401 Restrictions.

See § 6.401 of this title.

§ 595.402 Exceptions.

(a) The following procedures will govern where it is proposed to procure supplies originating from sources within Soviet-controlled areas for public use within the United States (as defined in § 6.101(c) of this title), or where a construction contractor proposes to use such supplies in the performance of a construction contract within the United States (as defined in § 6.201–4 of this title).

(1) Where the cost of the proposed procurement of such supplies is $2,500 or less, a Buy American Act determination of the nonavailability of domestic supplies will be made by an authorized delegate in accordance with § 595.103–2 of this Part. This determination will include, in addition to the findings outlined in the format set forth in § 595.103–2(d), a finding to the effect that there is no known item or items from sources outside Soviet-controlled areas which can be used as a reasonable substitute.

(2) Where the cost of the proposed procurement of such supplies exceeds $2,500, a request for Secretarial approval of the proposed procurement, as provided in § 6.402(b)(2) of this title, will be forwarded, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch. Each submission will include all the information required to support a Buy American Act determination of the nonavailability of domestic supplies, as outlined in § 595.103–2(c), and in addition a statement to the effect that there is no known item or items from sources outside Soviet-controlled areas which can be used as a reasonable substitute. A proposed determination prepared for Secretarial signature will also be included. The format of the determination set forth in § 595.103–2(d) will be used and will include as a finding the statement referred to above as to the nonavailability of the item or items from outside Soviet-controlled areas.

(b) The following procedures will govern where it is proposed to procure supplies, originating from sources within Soviet-controlled areas for public use outside the United States (as defined in § 6.101(c) of this title), or where a construction contractor proposes to use such supplies in the performance of a construction contract outside the United States (as defined in § 6.201–4 of this title), or where a construction contractor proposes to use such supplies in the performance of a construction contract outside the United States (as defined in § 6.201–4 of this title).

(1) Where the cost of the proposed procurement of such supplies is $2,500 or less, the contracting officer will prepare for the contract file a statement establishing the unusual situation, such as an emergency or the nonavailability of acceptable substitute supplies of domestic or non-Soviet-controlled area origin, which justifies the procurement of supplies originating in a Soviet-controlled area.

(2) Where the cost of the proposed procurement of such supplies exceeds $2,500, a request for Secretarial approval of the proposed procurement, as provided in § 6.402(b)(2) of this title, will be forwarded, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch. Each submission will include complete information establishing the unusual situation, such as an emergency or the nonavailability of acceptable substitute supplies of domestic or non-Soviet-controlled area origin, which justifies the procurement of supplies originating in a Soviet-controlled area.

§ 595.501 Purchase from Canadian suppliers.

The purchase of supplies or services from sources in the Dominion of Canada shall be made from, and administered through the Canadian Commercial Corporation through its Washington Office, except:

(a) under circumstances of public exigency as described in § 3.202–2 of this title, procuring activities are authorized to negotiate directly with suppliers or contractors domiciled in the Dominion of Canada without reference to the Canadian Commercial Corporation;

(b) subject to applicable restrictions of §§ 592.205 and 592.211 of this subchapter, procuring activities are authorized to negotiate directly for research services with any university, college, or educational institution located in the Dominion of Canada without reference to the Canadian Commercial Corporation or Canadian clearing agency; or

(c) when the Canadian Commercial Corporation requests that the procurement be placed directly with Canadian suppliers or contractors.

§ 595.501–50 Solicitation of Canadian firms.

Canadian firms should be included on bidders' mailing lists and comparable source lists only upon request by the Canadian Commercial Corporation. Such requests should be directed to the activity having procurement responsibility for the supplies or services involved. Invitations for Bids and Requests for Proposals will be sent directly to the Canadian firms appearing on the appropriate bidders' mailing list. A copy of the Invitation for Bids or Request for Proposals and a listing of all Canadian firms solicited will be sent to the Canadian Commercial Corporation, 2450 Massachusetts Avenue NW., Washington, D.C., or to the Canadian Commercial Corporation, 56 Lyon Street, Ottawa, Canada. Invitations for Bids and Requests for Proposals will also be furnished to the Canadian Commercial Corporation, if requested by the Corporation for its own account, even though not furnished to Canadian firms.

§ 595.501–51 Submission of bids and proposals.

(a) Except as provided in § 595.501 (a), (b), and (c), bids and proposals received directly from Canadian firms will not be accepted. The Canadian Commercial Corporation will receive bids and proposals from individual Canadian firms for forwarding by cover letter to the procuring activity. Bids and proposals received directly from a Canadian firm shall be referred to the Canadian Commercial Corporation for appropriate action.

(b) Bids of the Canadian Commercial Corporation will be subject to the same consideration with respect to determining responsiveness as is applied to domestic bids.

§ 595.501–52 Pre-award survey requirements of Canadian firms.

(a) Except as provided in § 595.501, prime contracts for supplies or services procured from sources in the Dominion of Canada will be made with the Canadian Commercial Corporation and further subcontracted to sources selected by the Canadian Commercial Corporation.

(b) In determining the responsibility of the contractor where procurements are placed with Canadian sources, the contracting officer will document the file as required by § 1.904 of this title with a record of his determination as to the responsibility of the first tier subcontractor selected by the Canadian Commercial Corporation to perform the contract.

(c) The pre-award qualification check or survey information required by the contracting officer as the basis for the determination referred to in paragraph (b) of this section, may be obtained by direct request to the Canadian Commercial Corporation. To the extent deemed necessary, such surveys may be performed by the contracting officer or by his representative in lieu of or in addition to pre-award qualification survey information furnished by the Canadian Commercial Corporation.

§ 595.503 Agreement With Department of Defense Production (Canada).

See § 6.503 of this title.

§ 595.503–50 Letter Agreement With Department of Defense Production (Canada).

A letter agreement between the Department of Defense Production (Canada) and the Departments of the Army, Navy, and Air Force, dated July 27, 1956 and subsequently amended sets forth policies and procedures applicable to contracts for supplies and services, placed by the Military Departments with the Canadian Commercial Corporation on and after October 1, 1956. The agreement follows:

DEAR SIRS:

The agreement between the Department of Defence Production (Canada) and the United States Departments of the Army, Navy, and Air Force (hereinafter referred to as the "Military Departments"), evidenced by the letter of February 18, 1952, from the Deputy Minister of Defence Production (Canada), the terms of which were accepted by the Military Departments at Washington on February 26, 1952 (which agreement was amended as of January 13, 1953, December 21, 1955 and June 21, 1956), laid down policies and provided procedures with respect to all contracts for supplies and services placed

with the Canadian Commercial Corporation by the Military Departments, up to and including September 30, 1956.

Since experience in the administration of contracts placed by the Military Departments with the Canadian Commercial Corporation (hereinafter referred to as the "Corporation") under the agreement indicates that it is desirable to revise certain policies and procedures set forth in said agreement with respect to all contracts entered into on or after October 1, 1956, it is therefore agreed as follows:

1. This agreement applies to all contracts placed, on or after October 1, 1956, by any of the Military Departments with the Corporation. It shall remain in force from year to year until terminated by mutual consent; however, it can be terminated on the 31st day of December or the 30th day of June in any year by either party provided that six months notice of termination has been given in writing. In addition, this agreement provides for certain reciprocal arrangements facilitating procurement by each of the parties in the country of the other.

2. (a) The Corporation agrees that, if the aggregate profit realized by first-tier subcontractors under contracts covered by this agreement, excluding those subcontracts mentioned in subparagraph (b) below, exceeds 10% of the cost (as determined in accordance with Costing Memorandum DDP-31 of the Department of Defence Production (Canada)), the amount of such excess will be refunded by the Corporation to the Military Departments. For this purpose, the aggregate profit shall be computed by the Corporation on all first-tier subcontracts, excluding those mentioned in subparagraph (b) below, taken collectively and not individually. The Corporation shall, in computing such profit, conduct the audits called for in paragraph 5 and such other audits or verifications of costs as it may deem necessary, and shall render to the Military Departments its certificate as to such profit.

(b) Subcontracts placed by the Corporation as a result of formal competitive bidding, and subcontracts placed by the Corporation with Canadian Arsenals Limited or any other department or agency of the Canadian Government, shall not be included in computing the aggregate profit referred to in subparagraph (a) above.

(c) If, as a result of an audit made by direction of the Minister of Defence Production (Canada) under the powers conferred upon him by Section 21 of the Defence Production Act (Canada), it is disclosed that any individual subcontractor of any tier, including any subcontractor referred to in subparagraphs (a) and (b) above, has made a profit on a subcontract, under a contract covered by this agreement, in excess of an amount which the Minister considers to be fair and reasonable, the Minister shall take appropriate action to recover such excess, and the amount of any such recovery with respect to that subcontract shall be refunded to the Military Departments.

(d) Contracts for communication and transportation services, and the supply of power, water, gas, and other utilities shall be excepted from the provisions of subparagraphs (a) and (c) above provided the rates or charges for such services or utilities are fixed by public regulatory bodies; and provided further the Military Departments are accorded any special rates that may be available to the Canadian Government with respect to such contracts.

(e) The Canadian Government, its Departments and Agencies, including but not limited to the Corporation and Canadian Arsenals Limited, a Crown Company wholly owned by the Canadian Government, shall not be entitled to any profit on any contract or contracts covered by this agreement. Any profits which may be realized shall be refunded to the Military Departments except as hereinafter provided:

Before refunding profits realized from the following sources:

(i) Net profits of the Canadian Government, its Departments and Agencies, as defined above, with respect to contracts and subcontracts covered by this agreement,

(ii) Excess profits referred to in paragraph (a) above, and

(iii) Renegotiation recoveries from subcontractors of any tier under contracts covered by this agreement, which recoveries the Military Departments would otherwise be entitled to receive in accordance with the provisions of subparagraphs (a) and (c), above;

the Corporation shall be entitled to deduct any losses it may sustain with respect to contracts covered by this agreement.

(f) Interim adjustments and refunds under this paragraph 2 shall be made at such time or times as may be mutually agreed upon but at least once a year as of June 30th. Such interim adjustments shall apply only to completed contracts. The final adjustment and refund shall be made as soon as practicable after the expiration of this agreement.

(g) The profit and loss provisions of this paragraph 2 shall not apply to contracts awarded to the Corporation as the result of formal competitive bidding (initiated by Invitation for Bids).

3. (a) All contracts placed by the Military Departments with the Corporation, except those placed as the result of formal competitive bidding, shall provide for prices or cost reimbursement, as the case may be, in terms of Canadian currency, and for payment to be made in such currency. Therefore, quotations and invoices shall be submitted by the Corporation to the Military Departments in terms of Canadian currency, and such cost data, vouchers, etc. as the contracts require shall also be submitted in terms of Canadian currency. However, the Corporation may elect in respect of any of such contracts to quote, submit the said cost data, vouchers, etc., and receive payment in United States currency, in which event such contracts shall provide for payment in United States currency and shall not be subject to adjustment for losses or gains resulting from fluctuations in exchange rates.

(b) All formal competitive bids shall be submitted by the Corporation in terms of United States currency and contracts placed as a result of such formal competitive bidding shall not be subject to adjustment for losses or gains resulting from fluctuations in exchange rates.

4. The Military Departments and the Corporation shall avoid, to the extent consistent with the declared policies of the Military Departments and the Canadian Government, the making of any surcharges covering administration costs with respect to contracts placed with the Corporation by any of the Military Departments and contracts placed by the Military Departments in the United States for the Canadian Government.

5. To the extent that contracts placed with the Corporation by the Military Departments provide for the audit of costs and profits such audit will be made without charge to the Military Departments by the Cost Inspection and Audit Division of the Treasury of Canada in accordance with Costing Memorandum Form DDP-31 of the Department of Defence Production, Canada.

6. The Canadian Government shall arrange for inspection personnel of the Department of National Defence (Canada) to act on behalf of the Military Departments with respect to contracts placed by the Military Departments with the Corporation and with respect to subcontracts placed in Canada by United States contractors which are performing contracts for the Military Departments, and for the use of inspection facilities of the Department of National Defence (Canada) for such purposes, such personnel and facilities to be provided without cost to the Military Departments. The Military Departments shall provide and make no charge for inspection services and inspection facilities in connection with contracts placed in the United States by the Military Departments for the Canadian Government and with respect to subcontracts placed in the United States by Canadian contractors which are performing contracts for the Department of Defence Production (Canada). The Department of National Defence (Canada) or any Military Department may provide liaison with the other's inspection personnel in connection with the foregoing. It is understood that either the Department of National Defence (Canada) or any Military Department may in appropriate cases arrange for inspection by its own inspection organization in the other's country.

7. Because of the varying arrangements made by the Canadian Government and the Military Departments in furnishing Government-owned facilities (including buildings and machine tools) to contractors, it is recognized that the matter of inclusion in contract prices of charges, through amortization or otherwise, for use of such facilities will be determined in the negotiation of individual contracts. However, there shall be avoided, to the extent consistent with the policies of the Canadian Government and the Military Departments, any such charges for use of Government-furnished facilities.

8. (a) The Corporation agrees that the prices set out in fixed-price type contracts covered by this agreement will not include any taxes with respect to first-tier subcontracts; nor shall such prices include customs duties to the extent refundable in accordance with Canadian law, paid upon the import of any materials, parts, or components incorporated or to be incorporated in the supplies, with respect to first-tier subcontracts.

(b) The Corporation agrees that under cost-reimbursement type contracts the Corporation shall, to the extent practicable with respect to first-tier subcontracts, exclude from its claims all taxes and to the extent refundable in accordance with Canadian law, customs duties, paid upon the import of any materials, parts, or components, incorporated or to be incorporated in the supplies and that any amounts included in such claims representing such taxes and duties shall be refunded or credited to the Military Departments.

(c) The Corporation agrees that to the extent that such taxes and duties can be reasonably and economically identified it will use its best endeavours to cause such taxes and duties to be excluded from all subcontracts below the first-tier and if found to be included to be recovered and credited to the Military Departments.

9. The Corporation recognizes that existing law of the United States prohibits the use of the cost-plus-a-percentage-of-cost system of contracting.

10. Each contract covered by this agreement shall be deemed to include the provisions required by (i) Public Law 245, 82d Congress of the United States (65 Stat. 700; 41 U.S.C. 153(c)) and (ii) section 719 of Public Law 458, 83d Congress of the United States (68 Stat. 353) or similar provisions that may be required by subsequent legislation.

11. If the above correctly sets forth our mutual understanding, please indicate your acceptance by signing below.

Yours faithfully,

[s] D. A. GOLDEN,
D. A. Golden,
Deputy Minister.

Accepted in Washington, D.C.

[s] F. H. HIGGINS,
F. H. Higgins,
Assistant Secretary of the Army (Logistics).

[s] R. H. FOGLER,
R. H. Fogler,
Assistant Secretary of the Navy (Material).

[s] DUDLEY C. SHARP,
Dudley C. Sharp,
Assistant Secretary of the Air Force (Material).

§ 595.504 Mutual Canadian-American interests.

(a) *General.* In implementing the Department of Defense policy of seeking the best possible coordination of the materiel programs of Canada and the United States, the Assistant Secretary of the Army (Logistics) has made determinations concerning listed supplies and instructions with respect to bids and proposals offering Canadian end products, as set forth in Subpart A of this Part and in this Subpart.

(b) *Application.* The alleviation of the restrictions of the Buy American Act with respect to Canadian supplies as prescribed in this Section applies to the evaluation of bids or proposals in solicitations involving competitive bidding on (i) supply contracts, (ii) research and development contracts, and (iii) contracts for services involving articles, materials and supplies.

(c) *Limitations.* The authority contained in this Part with respect to Canadian supplies, will not be used in instances where a solicitation and award must be limited to, or placed with, a domestic source in accordance with one or more of the following:

(1) Requirement for U.S. Mobilization Base;

(2) Small Business Set-Aside program;

(3) Labor Surplus Area Set-Aside program;

(4) Disaster Area program;

(5) Negotiated procurement in the interests of standardization (§ 3.213 of this title);

(6) Appropriation acts restrictions; or

(7) Other specific requirements in the interests of the U.S. Government in individual cases as approved by Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C.

Subpart F—Duty and Customs

CROSS REFERENCE: See Subpart F, Part 6 of this title.

Subpart G—Mutual Security Act Procurements

§ 595.701 Exemption from examination of records requirements.

See § 6.701 of this title.

§ 595.701–3 Contracts with other foreign contractors.

Heads of procuring activities, their deputies, and chiefs of staff are authorized to permit the omission of the Examination of Records clause set forth in § 7.104–15 of this title (in the case of a fixed price contract) and to modify the Records clause set forth in § 7.203–7 of this title as indicated in § 6.701–2(b) of this title (in the case of a cost reimbursement type contract) provided it is determined that such omission or modification will further the purpose of the Mutual Security Act of 1954. Heads of procuring activities may delegate this authority to the extent deemed practicable to such senior officers responsible for procurement as they may designate, without power of further redelegation.

15. In § 596.103–12(b), revise subparagraphs (3)(i), (3)(iii)(*j*), and (9), as follows:

§ 596.103–12 Disputes.

* * * * *

(b) *Procedure for Handling Disputes.* * * *.

(3) *Appeals to Secretary From Decisions of Contracting Officers.* (i) *Policy.* It is the policy of the Secretary that appellants shall have a prompt determination of disputes arising out of the performance of contracts. This policy may be achieved by reducing the administrative burden of processing low dollar appeals to the minimum consistent with the legal and contractual rights of the parties. Consistent with this policy, Rule 31, Armed Services Board of Contract Appeals, contained in § 30.1 of this title, provides for an Optional Accelerated Procedure for handling contract appeals involving $5,000 or less, to be applied at the request of appellants, subject to the concurrence of the Department concerned. Heads of procuring activities will accede to such requests by appellants except where a rejection of a request can be fully justified (subdivision (iii)(*j*) of this subparagraph).

* * * * *

(iii) *Action by head of a procuring activity.* * * *

(*j*) In the event the contractor has requested the Optional Accelerated Procedure, determine whether the Government's interests shall be adequately served by consenting thereto.

(*1*) If the Head of the Procuring Activity is firmly of the opinion that the request for the Optional Accelerated Procedure should be rejected, he shall submit the file, together with his reasons in opposition to the use of the accelerated procedure, to the Deputy Chief of Staff for Logistics, Department of the Army, Attn: Chief, Contracts Branch, for review and appropriate instructions with respect to concurrence or nonconcurrence in the request. Where instructed by the Chief, Contracts Branch, to reject the contractor's request, the Head of the Procuring Activity shall comply with the requirements of (*a*) through (*i*) of this subdivision, and include in his report to the Chief Trial Attorney a statement that the Government does not consent to the Optional Accelerated Procedure.

(*2*) If the Head of the Procuring Activity consents to the Optional Accelerated Procedure, or is instructed to do so by the Chief, Contracts Branch, he shall comply with the requirements of (*a*) through (*f*) of this subdivision, return the file to the contracting officer for preparation and presentation of the Government's position, and simultaneously notify the Board, through the Chief Trial Attorney, that the Government consents to the Optional Accelerated Procedure.

* * * * *

(9) *Motions for reconsideration.* (i) Heads of procuring activities shall review all decisions of the Armed Services Board of Contract Appeals with respect to their contracts, and, if they are of the opinion that any such decision is clearly erroneous, shall request the Chief Trial Attorney, within 10 days of the receipt of the decision, to move the Board for reconsideration, giving the grounds relied upon to sustain such a motion. The Chief Trial Attorney shall file a motion for reconsideration upon the request of the Head of the Procuring Activity, or, if he disagrees that such motion is appropriate, shall forward the request, together with his reasons in opposition within 5 days to the Assistant Secretary of the Army (Logistics) for decision. In all other cases heads of procuring activities may request the Chief Trial Attorney to file such motion.

(ii) The Chief Trial Attorney shall independently review all decisions of the Armed Services Board of Contract Appeals involving Army contracts and, if he considers any such decision to be clearly erroneous, shall file with the Board a motion for reconsideration. In all other cases he may file such motion.

(iii) At a hearing on a motion for reconsideration, the Government's case normally shall be presented by the Chief Trial Attorney, assisted by the trial attorney who argued the Government's case on the appeal and an attorney designated by the Head of the Procuring Activity.

(iv) If the Head of the Procuring Activity is of the opinion, after a rehearing by the Armed Services Board of Contract Appeals or refusal of the Board to grant a rehearing, that the file should be referred to the Comptroller General for advance decision prior to payment, he will forthwith so advise the Judge Advocate General setting forth his reasons therefor, and instruct the contracting officer concerned to withhold submission of the voucher thereon. The Judge Advocate General will, within 10 days after receipt of such advice, report the same to the Assistant Secretary of the Army (Logistics) with his recommendations.

16. Revise §§ 599.103–2, 599.104–2, and 599.105, and in § 600.205–50, revise paragraphs (b), (c), and (d), as follows:

§ 599.103–2 Performance bonds in connection with construction contracts.

Where the contracting officer finds that to require a 100 percent performance bond would be disadvantageous to the Government, a penal amount of not less than 50 percent of the contract price will be required. Authority is delegated to heads of procuring activities, and to such other persons as they may desig-

nate, to determine whether a performance bond should be required in connection with cost-reimbursement type construction contracts.

§ 599.104–2 Payment bonds in connection with construction contracts.

Authority is delegated to the heads of the procuring activities, and to such other persons as they may designate, to determine whether a payment bond shall be required in connection with cost-reimbursement type construction contracts, in accordance with § 10.104–2(c) of this title.

§ 599.105 Advance payment bonds.

Advance payment bonds are required only in the most exceptional circumstances. Where the head of a procuring activity considers that an advance payment bond is desirable, recommendation to that effect with a recommendation as to the penal sum thereof shall be forwarded to the Secretary for final determination. (§ 82.63 of this title.)

§ 600.205–50 Evidence appropriate to establish exemption from Federal excise taxes.

* * * * *

(b) *Scope of evidence of exemption.* The policies and procedures set forth on § 600.302–50(c) shall also apply to the scope of evidence appropriate to establish exemption from Federal taxes.

(c) *Persons authorized to furnish evidence of exemption.* (§ 600.302–50(d).)

(d) *Preparation and execution of Exemption Certificates.* (§ 600.302–50(e).)

* * * * *

17. Revise Subpart D, Part 600, to read as follows:

Subpart D—Contract Clauses

§ 600.401 Fixed-price type contracts.

§ 600.401–1 Clause for advertised and certain negotiated contracts.

See § 11.401–1 of this title.

§ 600.401–2 Alternate clause for certain negotiated contracts.

Before excluding a specific tax from the contract price pursuant to § 11.401–2(a)(5) of this title, contracting officers will obtain through channels the approval of the Chief, Contracts Branch, Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C. When this approval will prevent the timely placement of the contract, the request for approval may be transmitted electrically.

§ 600.402 Cost-reimbursement type contracts.

See § 11.402 of this title.

§ 600.450 Tax agreements between United States and foreign Governments.

Tax agreements have been made with the following governments: Belgium, Denmark, France, West German Federal Republic, Greece, Iceland, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Republic of the Philippines, Spain, Turkey, United Kingdom, and Yugoslavia.

§ 600.451 Clauses for use where tax agreements are in existence.

(a) *Use of clause.* Where tax agreements have been executed and where expenditures of the United States for common defense are exempted from taxes of the countries in which such expenditures are made, contracts to be performed overseas in foreign countries will include the applicable clause set forth in §§ 600.451–1 and 600.451–2.

(b) *Specific taxes excluded from contract price.* At the time of negotiation of the contract, contracting officers will obtain detailed information concerning the specific taxes and the amounts thereof which are excluded from the contract price. Such information will be made a part of the contract file.

§ 600.451–1 Clause for fixed-price contracts.

(a) The following clause shall be inserted in all fixed-price contracts between the Government of the United States and foreign contractors (except foreign governments):

TAXES

(a) The Contractor warrants that the contract prices, including the prices in subcontracts hereunder, do not include any tax or duty which the Government of the United States and the Government of _____ have agreed shall not be applicable to expenditures in _____ by the United States or any tax or duty from which the contractor, or any subcontractor hereunder, is exempt under the laws of _____. If any such tax or duty has been included in the contract prices through error or otherwise, the contract prices shall be correspondingly reduced.

(b) If for any reason after the contract date, the Contractor is relieved in whole or in part from the payment or the burden of any tax or duty included in the contract prices, the contract prices shall be correspondingly reduced.

(b) The following clause shall be inserted in all fixed-price contracts between the United States and foreign governments:

TAXES

(a) The contract prices, including the prices in subcontracts hereunder, do not include any tax or duty which the Government of the United States and the Government of _____ have agreed shall not be applicable to expenditures in _____ by the United States, or any other tax or duty not applicable to this contract under the laws of _____. If any such tax or duty has been included in the contract prices through error or otherwise, the contract prices shall be correspondingly reduced.

(b) If, after the contract date, the Government of the United States and the Government of _____ shall agree that any tax or duty included in the contract prices shall not be applicable to expenditures in _____ by the United States, the contract prices shall be reduced accordingly.

§ 600.451–2 Clause for cost-type contracts.

(a) This clause shall be inserted in all cost-type contracts between the Government of the United States and foreign contractors (except foreign governments):

TAXES

Any tax or duty from which the United States Government is exempt by agreement with the Government of _____, or from which the Contractor or any subcontractor hereunder is exempt under the laws of _____, shall not constitute an allowable cost under this contract.

(b) This clause shall be inserted in all cost-type contracts between the United States and foreign governments:

TAXES

Any tax or duty from which the United States Government is exempt by agreement with the Government of _____, or from which any subcontractor hereunder is exempt under the laws of _____, shall not constitute an allowable cost under this contract.

§ 600.452 Clause for use in fixed-price contracts where tax agreements are not in existence.

Authority is granted in effecting procurement outside the United States, its Territories, and possessions to substitute the following clause for the clauses prescribed in § 11.401 of this title:

TAXES

The contract price includes any and all applicable taxes.

18. Revise paragraphs (a) and (d) in § 601.404–6 and revise subparagraph (1)(iii) in § 601.404–7(c), as follows:

§ 601.404–6 Payrolls and statements.

(a) The payrolls and statements required by § 12.404–6(a) of this title shall be submitted to the contracting officer, or such other official as may be designated by the Head of the Procuring Activity. The contracting officer or other such official shall examine and retain them as provided in § 12.404–6 (b) and (c) of this title.

(d) Each weekly statement and copy of certified weekly payroll shall be delivered by the contractor or subcontractor, within 7 days after the regular payment date of the payroll period, to the contracting officer or such other official as may be designated for such purpose by the Head of the Procuring Activity concerned. Each contractor or subcontractor shall preserve his weekly payroll records for a period of 3 years from date of completion of the contract. The payroll records shall set out accurately and completely the name, occupation, and hourly wage rate of each employee, hours worked by him during the payroll period, the full weekly wages earned by him, any deductions made from such weekly wages, and the actual weekly wages paid to him. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative.

* * * * *

§ 601.404–7 Investigations.

* * * * *

(c) *Full scale investigations.* * * *

(1) *All investigations.* * * *

(iii) Copies of certified payroll records and statements as described in § 12.404–6 of this title.

19. Redesignate §§ 602.550, 602.551, 602.552, and 602.553 as §§ 602.502–50, 602.503–50, 602.504, and 602.550, respectively, as follows:

§ 602.502–50 Government - furnished property clause for fixed-price construction contracts.

* * * * *

§ 602.503–50 Government property clause for cost-reimbursement type construction contracts.

* * * * *

§ 602.504 Special tooling clause for fixed-price construction contracts.

* * * * *

§ 602.550 Government-furnished property (short form).

* * * * *

20. Add new Subpart G to Part 602, as follows:

Subpart G—Use of Government-Owned Industrial Facilities and Special Tooling on Work for Foreign Governments

§ 602.700 Scope of subpart.

See § 13.700 of this title.

§ 602.701 Use without charge.

Heads of procuring activities are authorized, with power of redelegation only to a deputy or principal assistant for procurement, to approve on behalf of the Secretary, requests for use of industrial facilities and special tooling without charge under the provisions of § 13.701 of this title.

21. Revise § 605.303 and revoke § 605.303–3, as follows:

§ 605.303 Order for supplies or services (DD Form 1155, 1155r, 1155c, and 1155s).

See § 16.303 of this title.

§ 605.303–3 Form superseded. [Revoked]

22. Revise paragraph (b) in § 606.204–5; add paragraph (e) to § 606.204–8; and add paragraph (b)(5) to § 606.204–13, as follows:

§ 606.204–5 Utility service contracts.

* * * * * *

(b) *Approval of contracts.* The purchase of utility services is governed by AR 420–41 and AR 420–62 (Administrative Army Regulations) which define the term "utilities services" and prescribe the required approvals for utilities services contracts and supplemental agreements. All contracts and supplemental agreements which, under the provisions of the above regulations, are subject to the manual approval of the Army Power Procurement Officer, or his authorized representative, shall be submitted for approval to the Chief of Engineers, ATTN: Army Power Procurement Officer, together with the supporting information required by § 606.205(c).

§ 606.204–8 Specific category-approval requirements.

* * * * *

(e) diesel-electric generating units with ratings in excess of 300 kva where it is proposed to procure foreign equipment either by formal advertising or negotiation.

§ 606.204–13 Preaward clearance.

* * * * *

(b) *Specific category approval requirements.* (§ 606.204–8.)

* * * * *

(5) Diesel-electric generating units with ratings in excess of 300 kva where it is proposed to procure foreign equipment (§ 606.204–8(e)).

* * * * *

23. Revise § 606.205 and paragraphs (f) and (g) of § 606.1303–1, as follows:

§ 606.205 Information to be furnished when requesting approval of contracts or awards of contracts.

Requests for approval of contracts or awards of contracts, including supplemental agreements or other modifications, submitted to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, in accordance with the provisions of § 606.204, shall include the information set forth in this section (in quadruplicate) and will be forwarded in sufficient time to allow a minimum of 15 days for review.

(a) *Request for approval of negotiated contract or award of negotiated contract.* Each request for approval of a negotiated contract or the award of a negotiated contract shall include the following information:

(1) *Requirements.* (i) Where "Procurement of Equipment and Missiles, Army" (PEMA) funds are to be used, cite the date, page number, and item number of the "Material Procurement Schedule" that approved the procurement.

(ii) Where "Research, Development, Test, and Evaluation, Army" (RDT&E) funds are to be used, include a statement that the items are approved in the RDT&E program and are contained in the "Report on Army Research and Development Changes to Planned Obligations."

(iii) State the quantity, delivery requirements, unit prices, total prices, and description of the supplies being procured.

(iv) Where the procurement includes the requirements of other military departments, technical services, or Government agencies, identify the department, technical service, or agency and state the quantity included for each.

(2) *Funds.* (i) Designate the funds to be used in the procurement by type (PEMA, RDT&E, O&M, etc.), amount, and source (Army, Navy, Air Force or other Government agency).

(ii) Indicate any changes made in the program as a result of insufficient funds.

(3) *Solicitation.* (i) Cite the authority under which the procurement was negotiated. If 10 U.S.C. 2304(a)(2) or 10 U.S.C. 2304(a)(10) is cited, see §§ 592.202–3 or 592.210–2(b) of this subchapter.

(ii) If solicitation of proposals was limited to one supplier, state the justification for the limitation.

(iii) Summarize the proposals received, including information on all factors affecting total cost to the Government (e.g. transportation to destination, acceptable discounts, Government-furnished property, etc.).

(iv) Forward one copy of request for proposal and amendments thereto, less drawings and specifications.

(4) *Negotiation.* Statement of negotiation proceedings will:

(i) List offerors with whom negotiations were conducted. If the proposal of any other offeror is lower than the proposals of the offerors with whom negotiations were conducted, justify rejection.

(ii) State significant changes made in proposal of each offeror during negotiations, listing in chronological sequence the bases for each change.

(iii) State changes, agreements, or offers made during negotiation proceedings, either by an offeror or the Government, which are not reflected in the changes in the proposals.

(iv) If the award is made on the basis of the initial proposal without further negotiations, explain reasons clearly.

(v) Furnish cost and price analysis of amount recommended for award (DD Form 633, DD Form 784, or equivalent). Include statement of cost experience on any recent prior procurement of same or similar items and comments as to comparability thereof.

(vi) Give basis for contracting officer's determination of reasonableness of price (or total cost and fee).

(vii) If approval of contract is required under provisions of §§ 606.204–1, 606.204–2, and 606.204–5, furnish one copy of contract.

(5) *Contractor.* (i) State name and address.

(ii) State location of plant where contract to be performed.

(iii) Indicate whether or not Small Business.

(iv) State labor surplus classification.

(v) Include copy of contracting officer's determination that prospective contractor is responsible as required by Subpart I, Part 1 of this title and Subpart I, Part 590 of this subchapter.

(vi) Name principal subcontractors, stating dollar value and type of proposed subcontracts. Indicate whether competition was obtained in selecting such subcontractors; if not, cite reasons for absence of competition. Indicate organizational relationship between prime contractor and principal subcontractors. Include a brief statement of make-or-buy program agreed upon with the contractor.

(vii) List estimated royalty and to whom to be paid.

(6) *Contract.* (i) State type to be used and reasons for selection.

(ii) Cite contract number and forms to be used.

(iii) List all standard or approved clauses to be used in the contract, including appropriate section references to Subchapter A, Chapter 1 of this title and this subchapter or specific DCSLOG approval; or, if standard forms are to be used, refer to clauses by clause number on the forms.

(iv) List deviations from standard or approved clauses and justification supporting request for such deviations (§§ 1.109 of this title and 590.109 of this subchapter).

(v) State type of price redetermination or escalation clause and amount of maximum upward revision.

(vi) Indicate delivery schedule.

(7) *Miscellaneous factors.* (i) Describe set-aside aspects of the procurement.

(ii) Indicate Buy American Act or Canadian Agreement implications.

(iii) State expiration date of proposal. Explain any need for urgent handling.

(iv) Indicate type, amount and extent of Government financial assistance (advance or progress payments, V-loan).

(v) Indicate type, value and quantity of Government-furnished property to be furnished the contractor.

(vi) Cite controversial aspects of award.

(b) *Request for approval or award of contract entered into by formal advertising.* Each request for approval of an advertised contract or the award of an advertised contract shall include the following information:

(1) *Requirements.* (i) List supplies or services being procured, showing quantities, unit prices and total prices.

(ii) Where the procurement includes the requirements of other military departments, technical services or Government agencies, identify the department, technical service or agency, and state the quantity included for each.

(2) *Funds.* Designate the funds to be used in the procurement by type (PEMA, RDT&E, O&M, etc.), amount and source (Army, Navy, Air Force, or other Government agency).

(3) *Solicitation.* Indicate date invitation for bids was issued, number of suppliers solicited to submit bids and number of bids received.

(4) *Award.* (i) Where it is proposed to make award to other than low bidder or bidders, give reasons therefor.

(ii) Give basis for contracting officer's determination or reasonableness of price.

(5) *Contractor.* (i) State name and address of contractor and location of plant where contract is to be performed.

(ii) Indicate whether or not Small Business.

(iii) State labor surplus classification.

(iv) Furnish copy of contracting officer's determination that contractor is responsible as required by Subpart 1, Part 2 of this title and Subpart I, Part 590 of this subchapter.

(6) *Contract.* Forward one copy of contract, less drawings and specifications, and two copies of the abstract of bids.

(7) *Miscellaneous factors.* (i) State expiration date of bid.

(ii) Indicate controversial aspects of award.

(c) *Information required by the Department of the Army Power Procurement Officer.* Requests for approval of utility contracts and modifications referred to in § 606.204–5 shall include the following information:

(1) Complete load data.

(2) Estimated maximum demand in kilowatts.

(3) Estimated average monthly demand in kilowatts.

(4) Estimated average monthly usage in kilowatt-hours.

(5) Estimated power factor.

(6) Similar applicable information for estimated usage of water, gas, sewage disposal, and steam contracts.

(7) Any other available pertinent information that will facilitate review including but not limited to, analysis of available rates and charges, supporting data for estimates of demand and use, and difficulties experienced in negotiation.

(d) *Letter contracts.* (§ 592.405–3 of this subchapter).

§ 606.1303–1 Basic principles.

* * * * *

(f) It is the intent of this subpart to give contractors a reasonable and properly allocable allowance, to the extent provided in this subpart, to cover the estimated loss of economic usefulness of their emergency facilities in production under defense contracts. The procedures for determining such allowances must be such as will expedite determination; this requires avoidance of an impossible perfectionism. There is no intent to limit the cost allowance to depreciation that would be allowable for income tax purposes if there were no Certificates of Necessity, nor to necessarily require that the allowance be below tax amortization covered by certificates. Each case must be judged on its merits in the light of these principles. If the result obtained by the application of the principles outlined in this subpart indicates substantial justification of the total amount of amortization and depreciation allowable for tax purposes during the emergency period, as a reasonable measure of true depreciation, such amount shall be accepted, without adjustment, as true depreciation. In those isolated cases where substantial justification can be shown for a larger amount of true depreciation than the total amount of amortization and depreciation allowable for tax purposes during the emergency period, the larger amount shall be allowable as a cost for purposes of contract pricing.

(g) Contractors may use normal depreciation without requesting a determination of true depreciation, or may elect to use either normal or true depreciation after a determination of true depreciation has been made. Once either method is elected, it must be followed consistently throughout the life of the emergency facility. Where an election is made to use normal depreciation, § 15.205–9 of this title is not intended to apply to assets fully amortized on the contractor's books of account under Certificates of Necessity. Where an election is made to use true depreciation, it shall be prorated over the full five-year emergency period, and proportionate amounts shall be allocated to contracts only for those fiscal periods during which the contracts are performed during the five-year period. Care must be exercised to assure that no other allowance is made under the contract which would duplicate the factors, such as extraordinary obsolescence, considered in the determination of true depreciation. In addition, where an election is made to use true depreciation, contract pricing for the post-emergency period will be based on depreciation computed by allocating the undepreciated cost of the emergency facility at the end of the emergency period (cost less true depreciation for that period) over the estimated remaining life of the facility, provided the remaining undepreciated portion of such cost shall not include any amount of unrecovered true depreciation.

[C 20, APP, April 6, 1960] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60–4203; Filed, May 10, 1960; 8:46 a.m.]

Chapter XVII—Office of Civil and Defense Mobilization

PART 1701—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

Conditions of Contributions

In § 1701.4, paragraph (a) is amended by striking the period at the end of the first sentence and adding thereafter, *"Provided, however,* That no part of the State's share has been or will be derived from Federal funds.", and is further amended by adding the word "readily" between the words "not" and "available" in the last sentence. As amended, § 1701.4(a) reads as follows:

(a) *Certification.* The State's share of the cost of civil defense equipment to which Federal contributions are made may be derived from any source it determines consistent with its laws: *Provided, however,* That no part of the State's share has been or will be derived from Federal funds. The making of a request for a contribution shall consitute a certification by the State (and the political subdivision, if applicable) that the necessary funds to provide for the State's share are available; that the equipment to be acquired is required for civil defense purposes; that the State (and political subdivision, if applicable) will comply with OCDM regulations covering "Contributions for Civil Defense Equipment" (Part 1701), "Labor Standards for Federally Assisted Contracts" (Part 1712 of this chapter), "United States Civil Defense Corps" (Part 1707 of this chapter), and "Official Civil Defense Insigne" (Part 1708 of this chapter); and that similar or equally satisfactory material is not readily available from Federal surplus personal property under the Federal Property and Administrative Services Act of 1949 (63 Stat. 378, 40 U.S.C. 471), as amended.

(Sec. 401, 64 Stat. 1254, 72 Stat. 1799, 23 F.R. 4991, 72 Stat. 861, 3 CFR 1958 Supp.; 50 U.S.C. App. 2253, 5 U.S.C. 133z–15; E.O. 10773, 23 F.R. 5061, E.O. 10782, 23 F.R. 6971, 3 CFR 1958 Supp.)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

Dated: April 21, 1960.

LEO A. HOEGH,
Director.

[F.R. Doc. 60–4201; Filed, May 10, 1960; 8:45 a.m.]

PART 1701—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

Retroactive Contributions

Section 1701.9 is revised to read as follows:

§ 1701.9 Limitations on obligating contributions funds.

(a) Except for projects qualifying under a specific exception set forth in OCDM Contributions Manual AM25–1, including any amendment thereto, effective July 1, 1960, no contribution shall be made toward the cost of civil defense programs and projects which have been procured or for which a contract, order, or other obligation to procure has been entered into prior to the date of OCDM approval of the project application involved.

(b) Contributions cannot be made toward obligations incurred or expenditures made by the State (or political subdivision) prior to the date of availability of the applicable Federal appropriation. With regard to services, such as maintenance and utility services, being rendered over a continuing period of time, contributions shall be only for eligible services required to serve the civil defense needs of the State (or political subdivision) during the Federal fiscal year current at the time the project application is submitted.

(Sec. 401, 64 Stat. 1254, 72 Stat. 1799, 23 F.R. 4991, 72 Stat. 861, 3 CFR 1958 Supp.; 50 U.S.C. App. 2253, 5 U.S.C. 133z–15; E.O. 10773, 23 F.R. 5061, E.O. 10782, 23 F.R. 6971, 3 CFR 1958 Supp.)

Effective date. This revision shall become effective on July 1, 1960.

Dated: April 21, 1960.

LEO A. HOEGH,
Director.

[F.R. Doc. 60–4202; Filed, May 10, 1960; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

Pacific Ocean, Hawaii

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.236 is hereby prescribed establishing and governing the use and navigation of an anchorage area in the Pacific Ocean off Barbers Point, Island of Oahu, Hawaii, as follows:

§ 202.236 Pacific Ocean off Barbers Point, Island of Oahu, Hawaii; Anchorage for tank vessels.

(a) *The anchorage ground.* The waters of the Pacific Ocean within an area described as follows: Beginning at a point at latitude 21°16'58" N., longitude 158°04'39" W.; thence on a bearing of 90° true, 850 yards; thence on a bearing of 180° true, 450 yards; thence on a bearing of 270° true, 850 yards; thence on a bearing of 360° true, 450 yards to point of beginning.

(b) *The regulations.* (1) This anchorage is for the use of tank vessels loaded with, loading, or unloading oil, and shall not be used by any other vessel except as provided in subparagraph (9) of this paragraph.

(2) The anchorage will be used only for the purposes stated and under the special limitations applicable thereto.

(3) When tank vessels are conducting loading or unloading operations as indicated by the display of a red flag (International Code Flag "B") at the masthead, passing vessels of over 100 tons displacement will reduce speed to six (6) knots over the ground.

(4) Owners of tank vessels shall notify the Captain of the Port, 14th Coast Guard District, Honolulu, and the Commanding Officer, U.S. Naval Air Station, Barbers Point, not less than twenty-four (24) hours prior to actual occupancy of the anchorage ground by a tank vessel. Such notification shall include the maximum height above the waterline of the uppermost portion of the tank vessel's masts and a description, including height of the highest anchor light which will be displayed by the vessel at night when at anchor.

(5) During periods when Navy mining training is being conducted in the mining area defined in this subparagraph, owners of tank vessels shall insure that these vessels remain clear of this area. Frequency of mining operations will be approximately twice a year. The mining area is contained within the rectangle formed by the following coordinates:

Latitude	*Longitude*
21°17'21" N.	158°03'43" W.
21°17'40" N.	158°01'53" W.
21°17'09" N.	158°01'48" W.
21°16'51" N.	158°03'37" W.

(6) Owners of tank vessels shall delay actual occupancy of the anchorage ground by a tank vessel for a period not to exceed forty-eight hours approximately twice a year upon notification by the Commander, Naval Air Bases, 14th Naval District. Such notification shall be received not less than two weeks in advance.

(7) Tank vessels engaged in loading or unloading operations will normally occupy the area every two to three weeks with an occupancy time therein of approximately thirty-six hours per tank vessel.

(8) The use of this anchorage will neither restrict nor prohibit in any manner the operation of military aircraft over or near the anchorage, or the operation of naval vessels or other craft in the immediate vicinity.

(9) The following vessels only shall navigate or anchor in the area:

(i) Tank vessels using the mooring for loading or unloading operations.

(ii) Vessels belonging to the United States Government.

(iii) Commercial tugs, lighters, barges, and launches engaged in business pertaining to the mooring area.

(10) Tank vessels equipped with a "Butterworth" system shall refrain from employing such equipment during occupancy of the anchorage area.

(11) Vessels occupying the area shall refrain from pumping of bilges.

(12) Permanent mooring buoys may be installed within the area subject to Department of the Army permits being obtained for such installations.

(13) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the laws.

(14) The regulations of this section shall be enforced by the Captain of the Port, U.S. Coast Guard, Honolulu, and such agencies as he may designate.

[Regs., April 21, 1960, 285/91 (Pacific Ocean, Hawaii)—ENGCW–O] (Sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60–4204; Filed, May 10, 1960; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Zanzibar Protectorate

In § 168.5 *Individual country regulations,* as published in the FEDERAL REGISTER of March 20, 1959, at pages 2117–2195, as Federal Register Document 59–2388, the country "Zanzibar and Pemba", as amended by Federal Register Document 59–7459, 24 F.R. 7250–7251, Federal Register Document 60–2068, 25 F.R. 1948–1949, Federal Register Document 60–2293, 25 F.R. 2104, is amended as follows:

I. The country heading of "Zanzibar and Pemba" is amended to read "Zanzibar Protectorate (Zanzibar, Pemba and adjacent islands)".

II. Under Parcel Post, strike out "Weight limit: 11 pounds" where it appears in the tabular information immediately following the item *Air parcel rates, including surcharges,* and insert in lieu thereof "Weight limit: 22 pounds". The weight limit of surface and air parcel post packages for the Zanzibar Protectorate is increased to 22 pounds.

III. Under Parcel Post, the item *Observations* is amended for the purpose of clarification to read as follows:

Observations. Parcels may be accepted for any place in Zanzibar Protectorate, but delivery is confined to the town of Zanzibar and to Chaki-Chaki and Weti in the island of Pemba; and the addressees of the parcels for other places in the Protectorate must arrange accordingly.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60–4214; Filed, May 10, 1960; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER S—NUMBERING OF UNDOCUMENTED VESSELS, STATISTICS ON NUMBERING, AND "BOATING ACCIDENT REPORTS" AND ACCIDENT STATISTICS

[CGFR 60-39]

PART 171—STANDARDS FOR NUMBERING

Nevada System of Numbering Approved

Acting under the authority delegated by Treasury Department Order 167-32, dated September 23, 1958 (23 F.R. 7605), the Commandant, United States Coast Guard, on April 19, 1960, approved the Nevada system for the numbering of motorboats, which was established pursuant to the Federal Boating Act of 1958.

As provided in this approval, the Nevada system shall be operative on and after May 1, 1960. On that date the authority to number motorboats principally used in the State of Nevada will pass to that State and simultaneously the Coast Guard will discontinue numbering such motorboats. Those motorboats presently numbered should continue to display the Coast Guard number until renumbered by Nevada. On and after May 1, 1960, all reports of "boating accidents" which involve motorboats numbered in Nevada will be required to be reported to the Nevada Department of Motor Vehicles, Registration Division, Carson City, Nevada, pursuant to the Nevada Boat Act (Chapter 265 of the 1960 Statutes approved March 17, 1960); and the rules and regulations promulgated by the Nevada Department of Motor Vehicles.

Because the amendments to §§ 171.01-6(b), and 171.10-1(b), as set forth in this document, are informative rules about official actions performed by the Commandant, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof) is unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), and 167-17, dated June 29, 1955 (20 F.R. 4976), to promulgate rules in accordance with the statutes cited with the informative rules below, the following amendments are prescribed with an effective date of May 1, 1960:

Subpart 171.01—General

1. Paragraph (b) of § 171.01-6 *Temporary exemptions until July 1, 1960,* is amended by deleting "Nevada" from the list of States.

(Sec. 3, 60 Stat. 238, and sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633)

Subpart 171.10—Application for Number

2. Paragraph (b) of § 171.10-1 *To whom made* is amended by inserting in the list of States having approved numbering systems the State of "Nevada."

(Sec. 3, 60 Stat. 238, and sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633)

Dated: May 4, 1960.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 60-4248; Filed, May 10, 1960; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 172]

DISPOSITION OF SEIZED PERSONAL PROPERTY

Action on Petitions for Remission or Mitigation of Forfeitures

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in 68A Stat. 917, 62 Stat. 761, as amended; 52 Stat. 1252, 53 Stat. 1292; 26 U.S.C. 7805, 18 U.S.C. 1261, 15 U.S.C. 907, 49 U.S.C. 788.

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

In order to implement and set forth the policy of the Treasury Department in regard to the action taken on petitions for remission or mitigation of forfeitures, 26 CFR (1954) Part 172 is amended as follows:

§ 172.9 [Amendment]

PARAGRAPH 1. Section 172.9 is amended by adding the following new sentence to the end thereof: "Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime."

PAR. 2. Section 172.16 is amended by changing the section to read as follows:

§ 172.16 Equity.

The term "equity", as used in administrative action on petitions for remission or mitigation of forfeitures, shall mean that interest which a petitioner has in the personal property or carrier petitioned for at the time of final administrative action on the petition, but such interest shall not be considered to include any unearned finance charges from the date of seizure or the date of default, if later; any amount rebatable on account of paid insurance premiums; attorney's fees for collection; any amount identified as dealer's reserve; or any amount in the nature of liquidated damages that may have been agreed upon by the buyer and the petitioner.

PAR. 3. Section 172.26 is amended by changing the section to read as follows:

§ 172.26 Forfeiture of seized personal property.

(a) *Administrative forfeiture.* (1) Personal property seized as subject to forfeiture under the internal revenue laws which has an appraised value of $2,500.00 or less, and any carrier appraised by the seizing officer at $2,500.00 or less under the custom laws shall be forfeited to the United States in administrative or summary forfeiture proceedings.

(2) In respect of personal property seized as subject to forfeiture under the internal revenue laws which, in the opinion of the seizing officer, has an appraised value of $2,500.00 or less, such officer shall cause a list containing a particular description of the seized property to be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers, selected by the seizing officer, who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisement shall be properly attested to by the seizing officer and such appraisers.

(3) In respect of personal property seized as subject to forfeiture under the internal revenue laws and found by the appraisers to have a value of $2,500.00 or less, the Supervisor in Charge shall publish a notice once a week for three consecutive weeks, in some newspaper of the judicial district where the seizure was made, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(4) In respect of carriers seized as subject to forfeiture under the provisions of the custom laws and appraised by the seizing officer as having a value of $2,500.00 or less, the Supervisor in Charge shall publish notice of seizure in the same manner as required by subparagraph (3) of this paragraph; provided that the time for making claim shall be within 20 days from the date of first publication.

(5) Any person claiming the personal property or carrier so seized, within the time specified in the notice, may file with the Supervisor in Charge a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of $250.00, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation. Both the claim and the cost bond should be executed in quadruplicate.

(b) *Judicial condemnation.* (1) The Assistant Regional Commissioner or the Supervisor in Charge shall authorize the United States Attorney to institute libel proceedings in those instances where the appraised value of the seized personal property or carrier exceeds $2,500.00, or where a claim and cost bond are filed as provided above.

PAR. 4. Section 172.38 is amended by changing the section to read as follows:

§ 172.38 Contents of the petition.

(a) *Description of property.* The petition should contain such a description of the property and such facts of the seizure as will enable the officers of the Internal Revenue Service concerned to identify the property.

(b) *Statement regarding knowledge of seizure.* In the event the petition is filed for the restoration of the proceeds derived from sale of the property pursuant to summary forfeiture, it should also contain, or be supported by, satisfactory proof that the petitioner did not know of the seizure prior to the declaration or condemnation of forfeiture, and that he was in such circumstances as prevented him from knowing of the same. (See also § 172.39.)

(c) *Interest of petitioner.* The petition should state in clear and concise terms the nature and amount of the present interest of the petitioner in the property, and the facts relied upon to show that the forfeiture was incurred without willful negligence or without any intention upon the part of the petitioner to defraud the revenue or to violate the law, or such other mitigating circumstances as, in the opinion of the petitioner, would justify the remission or mitigation of the forfeiture.

(d) *Petitioner innocent party.* If the petitioner is not the one who in person committed the act which caused the seizure, the petition should state how the property came into the possession of such other person, and that the petitioner had no knowledge or reason to believe, if such be the fact, that the property would be used in violation of law.

(e) *Results of investigation.* The petition should also state what investigation, if any, was made of such other person, through principal Federal, State, or local law enforcement officers, to determine whether such other person had either a record or a reputation, or both, as a liquor law violator in a case involving a seizure for violation of the internal revenue laws relating to liquor; or as a violator in the field of commercial crime in all other types of seizures. The

petition should further state the information obtained from said investigation, and whether such information was received before the petitioner acquired his interest in the property, or such other person acquired his right in the property, whichever occurred later.

(f) *Documents supporting claim.* The petition should also be accompanied by copies, certified by the petitioner under oath as correct, of contracts, bills of sale, chattel mortgages, reports of investigators or credit reporting agencies, affidavits, and any other papers or documents that would tend to support the claims made in the petition.

(g) *Costs.* The petition should also contain an undertaking to pay the costs, if costs are assessed as a condition of allowance of the petition. Costs shall include all the expenses incurred in seizing and storing the property; the costs borne or to be borne by the United States; the taxes; if any, payable by the petitioner or imposed in respect of the property to which the petition relates; the penalty, if any, asserted by the Director, Alcohol and Tobacco Tax Division; and, if the property has been sold, or is in the course of being sold, the expenses so incurred.

PAR. 5. Section 172.41 is amended by changing the section to read as follows:

§ 172.41 Discontinuance of administrative proceedings.

If the petition is filed prior to administrative sale or retention for official use, proceedings to effect such sale or retention will be discontinued.

PAR. 6. Section 172.43 is amended by changing the section to read as follows:

§ 172.43 Final action.

(a) *Petitions for remission or mitigation of forfeiture.* (1) The Director, Alcohol and Tobacco Tax Division, shall take final action on any petition filed pursuant to these regulations. Such final action shall consist either of the allowance or denial of the petition. In the case of allowance, the Director shall state the conditions of the allowance.

(2) In the case of an allowed petition, the Director, Alcohol and Tobacco Tax Division, may order the property returned to the petitioner, sold for the account of the petitioner, or, pursuant to agreement, acquired for official use.

(3) The Assistant Regional Commissioner shall notify the petitioner of the allowance or denial of the petition and, in the case of allowance, the conditions under which the Director, Alcohol and Tobacco Tax Division, allowed the petition.

(b) *Offers in compromise of liability to forfeiture.* (1) The Director, Alcohol and Tobacco Tax Division, shall take final action on any offer in compromise of the liability to forfeiture of personal property seized as provided in § 172.25. Such action shall consist either of the acceptance or rejection of the offer. (2) The Assistant Regional Commissioner shall notify the proponent of the acceptance or rejection of the offer.

PAR. 7. Section 172.44 is amended to read as follows:

§ 172.44 Acquisition for official use and sale for account of petitioner in allowed petitions.

(a) *Acquisition for official use.* (1) The property may be purchased by the United States pursuant to agreement and retained for official use. Where the petitioner is the owner, the purchase price is the appraised value of the property less all costs. Where the petitioner is a creditor, the purchase price is whichever one of these amounts is the smaller: (i) the petitioner's equity, or (ii) the appraised value of the property less the amount of all costs.

(b) *Sale for account of petitioner.* (1) The petitioner may elect not to comply with the condition on which the property may be returned. In this event, the Supervisor in Charge is authorized to sell it. Where the petitioner is the owner of the property, there is deducted from the proceeds of the sale all costs, and the Regional Commissioner pays to the petitioner, out of the proper appropriation, an amount equal to the balance, if any. Where the petitioner is a creditor, there is deducted from the proceeds of the sale all costs, and the Regional Commissioner pays to the petitioner, out of the proper appropriation, an amount equal to the balance, if any: *Provided,* That if that amount exceeds the amount of the equity, only the latter amount is paid to the petitioner.

§ 172.55 [Amendment]

PAR. 8. Section 172.55 is amended by substituting, in the first sentence, the phrase "in the judicial district" for the phrase "in the internal revenue collection district."

[F.R. Doc. 60-4249; Filed, May 10, 1960; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

ROMAINE

Subpart—United States Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering the revision of United States Standards for Romaine pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The proposed standards, if promulgated, would delete the requirement of "fairly well headed". This requirement is no longer appropriate in view of prevailing varieties and cultural practices. A few additional minor definitions are included for clarification.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D.C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards, as revised, are as follows:

GRADES

Sec.
51.3295 U.S. No. 1.

UNCLASSIFIED

51.3296 Unclassified.

TOLERANCES

51.3297 Tolerances.

APPLICATION OF TOLERANCES

51.3298 Application of tolerances.

DEFINITIONS

51.3299 Similar varietal characteristics.
51.3300 Fresh.
51.3301 Well developed.
51.3302 Well trimmed.
51.3303 Damage.
51.3304 Serious damage.

AUTHORITY: §§ 51.3295 to 51.3304 issued under secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

GRADES

§ 51.3295 U.S. No. 1.

"U.S. No. 1" consists of romaine plants of similar varietal characteristics which are fresh, well developed, well trimmed, and which are free from decay, and free from damage caused by seedstems, broken, bruised or discolored leaves, tipburn, wilting, foreign material, freezing, dirt, disease, insects, mechanical or other means.

UNCLASSIFIED

§ 51.3296 Unclassified.

"Unclassified" consists of plants which have not been classified in accordance with the foregoing grade. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

§ 51.3297 Tolerances.

In order to allow for variations incident to proper grading and handling the following tolerances, by count, are provided:

(a) 10 percent of the plants in any lot may fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for serious damage, including therein not more than 2 percent for decay.

APPLICATION OF TOLERANCES

§ 51.3298 Application of tolerances.

The contents of individual packages are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(a) A package shall have not more than one and one-half times a specified tolerance of 10 percent and not more than double a specified tolerance of less than 10 percent, except that at least one defective plant may be permitted in any package.

DEFINITIONS

§ 51.3299 Similar varietal characteristics.

"Similar varietal characteristics" means that the plants in any container are of the same general type.

§ 51.3300 Fresh.

"Fresh" means that the plant has normal succulence but the outermost leaves may be slightly wilted.

§ 51.3301 Well developed.

"Well developed" means that the plant shows normal growth and shape.

§ 51.3302 Well trimmed.

"Well trimmed" means that the stem is trimmed off close to the point of attachment of the outer leaves.

§ 51.3303 Damage.

"Damage" means the specific defect described in this section; any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the plants.

(a) Seedstems when the length of the attached seedstem is more than one-fourth the overall plant length or when any portion of the seedstem has been removed.

§ 51.3304 Serious damage.

"Serious damage" means any defect, or any combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the plant.

Dated: May 5, 1960.

ROY W. LENNARTSON,
Deputy Administrator, Marketing Services.

[F.R. Doc. 60-4223; Filed, May 10, 1960; 8:48 a.m.]

[7 CFR Part 936]

FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Expenses and the Fixing of Rates of Assessment for 1960–61 Season

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

(a) That the Secretary of Agriculture find, with respect to Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches, that expenses not to exceed the following amounts are likely to be incurred, during the season beginning March 1, 1960, and ending February 28, 1961, both dates inclusive, by the Control Committee for the maintenance and functioning of such committee and the respective commodity committee established under the aforesaid amended marketing agreement and order.

(1) Bartlett pears, $23,048.81;

(2) Early varieties of plums, $20,129.02;

(3) Late varieties of plums, $20,177.51;

(4) Elberta peaches, $12,449.66.

(b) That the Secretary of Agriculture fix, as each handler's pro rata share of such expenses, the following rates of assessment which each handler shall pay in accordance with the provisions of said amended marketing agreement and order:

(1) 8 and ½ mills ($0.0085) per standard western pear box of Bartlett pears, or its equivalent in other containers or in bulk;

(2) 8 and ½ mills ($0.0085) per standard four-basket crate of early varieties of plums, or its equivalent in other containers or in bulk;

(3) 8 and ½ mills ($0.0085) per standard four-basket crate of late varieties of plums, or its equivalent in other containers or in bulk; and

(4) 5 mills ($0.005) per California peach box of Elberta peaches, or its equivalent in other containers or in bulk.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposals may do so by submitting the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than the 10th day following publication of this notice in the FEDERAL REGISTER.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 6, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-4252; Filed, May 10, 1960; 8:52 a.m.]

[7 CFR Part 937]

NECTARINES GROWN IN CALIFORNIA

Notice of Proposed Rule Making With Respect to Approval of Expenses and Fixing of Rate of Assessment for the 1960–61 Fiscal Year and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Nectarine Administrative Committee, established under the marketing agreement and Order No. 37 (7 CFR Part 937) regulating the handling of nectarines grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses that are reasonable and likely to be incurred by said committee, during the fiscal period beginning March 1, 1960, and ending February 28, 1961, to enable it to perform its functions in accordance with the provisions of the said marketing agreement and order, will amount to $114,000.00.

(b) That the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles nectarines shall pay during the fiscal period ending February 28, 1961, in accordance with the applicable provisions of said marketing agreement and order, the rate of assessment of $0.03 per standard lug box of nectarines, or equivalent quantity of nectarines in other containers or in bulk, so handled by such handler during such fiscal period.

(c) That the Secretary of Agriculture find that unexpended assessment funds, in excess of expenses incurred during the fiscal period ending February 28, 1961, shall be carried over as a reserve in accordance with the applicable provisions of § 937.42 of said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order, and "standard lug box" shall mean the No. 26 standard lug box set forth in section 828.4 of the Agricultural Code of California.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 6, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-4253; Filed, May 10, 1960; 8:52 a.m.]

[7 CFR Part 1030]

[Docket No. AO-318]

FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREGON

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to a Proposed Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agree-

ments and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oregon, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act." Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., not later than the close of business of the fifteenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the "order") were formulated, was held at Fruitland, Idaho, on March 9 and 10, 1960, pursuant to a notice thereof which was published February 9, 1960, in the FEDERAL REGISTER (25 F.R. 1132). Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by the Prune Committee of the Idaho State Horticultural Society, with a petition for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions:

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The incurring of expenses and the levying of assessments;

(d) Authority to establish marketing research and development projects;

(e) The method for regulating shipments of prunes grown in the production area;

(f) The provision of exemptions and the establishment of special regulations for prunes handled in certain types of shipments or for certain specified purposes;

(g) The requirement for inspection and certification of prunes handled;

(h) The establishment of reporting requirements for handlers;

(i) The requirement of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(j) Additional terms and conditions as set forth in §§ 1030.62 through 1030.71 and published in FEDERAL REGISTER (25 F.R. 1132) on February 9, 1960, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ 1030.72 through 1030.74, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) Except for a small volume from the States of New York and Michigan, the entire production of prunes for fresh market is centered in the States of Washington, Oregon, and Idaho. Prune production for fresh market in Idaho during the past 10 years has ranged from a low of 8,850 tons in 1950 to the 24,700 ton peak production attained in 1956. Production in 1957, 1958, and 1959 was 21,400 tons, 18,530 tons, and 21,800 tons, respectively. Production figures for prunes grown in Malheur County, Oregon, during this same period were not presented during the hearing. It was stated that all of such prunes have been prepared for market in packing facilities in Idaho and marketed as Idaho prunes. A commercial fruit tree census in 1958 lists a total of 7,435 prune trees in Malheur County, all except 300 of which were of bearing age, though many of such trees have not attained full production.

Early prunes and late prunes are considered dual purpose in that they can be and are used for both fresh market and processing. However, it is generally true that the greater percentage of the early prunes go into fresh market channels. Likewise, the greater percentage of the prunes that are processed are of the late varieties. Prunes from the production area are generally marketed throughout the United States. Among the more important markets are Chicago, New York, Philadelphia, Boston, St. Louis, Detroit, San Antonio, and Los Angeles. Boise, Pocatello, Twin Falls, and Idaho Falls, within the State of Idaho, are also markets for Idaho prunes. Canada is an important export market for Idaho prunes. Prunes are also exported to a limited extent to Central and South America, and are shipped to the States of Hawaii and Alaska.

Shipments of Idaho prunes start about the third week of August and continue for approximately 60 days, or until about October 20. There may be an overlapping of shipments of plums from California during the early part of the season, and often prunes from Washington and Umatilla County, Oregon, are still being marketed at the beginning of the marketing season for prunes from the production area.

Any handling of prunes, grown in the production area, in fresh market channels exerts an influence on all other handling of such prunes in fresh form. Sellers of such prunes, as of other commodities, endeavor to transact their business so as to secure maximum returns for the prunes they have for sale. The seller of prunes continually surveys all accessible markets so that he may take advantage of the best possible opportunity to market the fruit. Markets within the State of Idaho provide opportunities to dispose of prunes the same as markets within other States, or for export; and the sale of a quantity of prunes in a market within Idaho exerts an influence on all other sales of prunes. If shipments of prunes to markets outside Idaho were regulated, while those within the State were unregulated, growers and handlers would attempt to market within the State all the lower quality prunes which could not be shipped under regulation. This would depress the price of prunes in Idaho markets to a level below that prevailing in markets outside the State. The existence of a lower price level for prunes marketed within Idaho would tend to depress the price for prunes sold in interstate markets. Buyers generally have ready access to market information; and knowledge of lower prices in one market is used in bargaining for prunes to be shipped into other markets, including those outside the State of Idaho. As a case in point, there are business concerns which have retail outlets throughout the State of Idaho and parts of Oregon and Utah, and such concerns are well aware of the price situation in markets throughout the intermountain area. Furthermore, with large quantities of poor quality prunes available for sale in markets within the State of Idaho, there would be less opportunity to sell in such markets prunes meeting the requirements of the regulations established. The larger quantity of prunes, which would be required to be sold in interstate markets under such circumstances, would also tend to lower the level of prices in the interstate markets.

Itinerant truckers move a limited quantity of prunes, mainly to intrastate markets. It is the general practice throughout the production area that when sales are made to truckers no attempt is made to ascertain the destination of the prunes. It is generally assumed that local truckers will most generally dispose of their purchases within the State. However, it is more than probable that shipments intended for Boise, Pocatello, or Twin Falls will be diverted to other markets outside the State, if prices were more favorable there than in markets within the State of Idaho. Under these circumstances, it would be difficult to effect compliance with regulations governing interstate shipments if shipments to markets within the State were unregulated.

Hence, it is concluded that the movement and sale of Idaho prunes, whether to a market within the State of Idaho or outside thereof, affect prices of all prunes

grown in the production area. Therefore, it is hereby found that all handling of such prunes grown in the production area is either in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce; and, except as hereinafter otherwise provided, all handling of prunes grown in the production area should be subject to the authority of the act and of the order.

(2) Except for the 1943, 1950, and 1954 seasons, when production was considerably below average, the pattern of production of Idaho prunes for fresh market has been fairly stable at about 20,000 tons per year since 1940. Peak production of 33,300 tons for fresh market was attained during the 1947 season. A 1958 commercial fruit tree census lists a total of 328,152 prune trees in Idaho and 7,435 prune trees in Malheur County, Oregon. A total of 24,415 of these trees in Idaho were 1-2 years of age, 7,510 trees 3 years of age, and 49,470 trees 4–8 years of age. A total of 150 trees in Malheur County, Oregon, were 1–2 years of age, 150 trees 3 years of age, and 1,745 trees 4–8 years of age. This makes a total of 83,440 trees, or approximately 25 percent of the trees in the production area, that will not reach peak production for from 2 to 10 years. Testimony of record shows that new plantings are continuing and, as such plantings come into full bearing, production will increase.

The economy of the production area depends largely on the production and handling of fruits. Prunes and apples are the major fruits produced in this area with peaches and cherries produced to a lesser degree. Pruning, harvesting, and packing of prunes occur at times when labor and facilities are not being utilized for other fruit crops, and thus the prune is important to the efficient use of such factors in the total fruit industry.

The season average price for Idaho prunes has exceeded the average parity price during three seasons since 1949. During the other seasons, the season average price has ranged from 36.9 percent to 91.0 percent of the equivalent parity price. Average grower returns for fresh prunes marketed during the 1959 season are not yet available. Industry representatives report, however, that prices declined to the point where only the costs of harvesting and marketing the prunes were being realized and, as a result, many crops were not harvested for the fresh market. Comparable parity prices are not available for Malheur County, Oregon. At the present time all the prunes produced in Malheur County, Oregon, are prepared for market at packing facilities in Idaho and all such prunes are commingled with Idaho prunes during the marketing process.

There are periods during each marketing season when prunes of particular sizes, qualities, and maturities did not return costs of harvesting and marketing. Prices for prunes are generally high at the beginning of the season, and growers and handlers are anxious to start shipping in order to take advantage of such prices. Under such circumstances, the earliest shipments often have not been sufficiently mature to give consumers satisfaction. It is believed that consumer dissatisfaction arising from the purchase and consumption of such prunes curtails demand for prunes. It is particularly important in view of the prospective increase in production as the trees reach maximum production, which as it develops will have to be absorbed by the market, that the prunes consumers receive are of desirable grade, quality, size, and maturity. Prunes of sizes which are smaller than the normal size range for the particular variety do not develop the flavor and quality characteristics that are desired by consumers. Shipment of such prunes depresses the price for all prunes and contributes to disorderly marketing conditions for the desired sizes and qualities of such fruit.

Prices of Idaho prunes and returns to the growers of such fruit could be augmented by restricting shipments in fresh market channels to prunes of desirable maturity, grade, size, and quality. When supplies of prunes are heavy, fruit of inferior grades and qualities, or of undesirable maturity or size, may be sold only at discounts, and, since competition in the marketing of prunes is based to a considerable extent on price, such discount sales tend to depress prices for all prunes being marketed. Restrictions on the shipment of such discounted fruit would, therefore, tend to increase prices for good quality prunes. Moreover, shipments of prunes which are of inferior grade or quality, or of undesirable size or maturity, often do not sell at prices covering even the cash costs of harvesting and marketing. Restrictions on the shipment of such fruit would not only improve the grade, size, and quality of prunes marketed and promote buyer confidence in Idaho prunes (including prunes produced in Malheur County, Oregon, which are commingled with Idaho prunes), but would also improve the average returns to growers by preventing losses incurred through shipment of undesirable fruit. Moreover, the shipment of very poor quality prunes, including culls, immature fruit, extremely small sizes, and deteriorated fruit, is rarely ever in the interest of consumers or producers. Prunes of such poor quality are not a value to the consumer because of poor flavor and excessive waste. Shipment of such prunes results in consumer dissatisfaction and destruction of the reputation for quality of Idaho prunes. Even when the season average price is above the parity level, it is not in the public interest to ship such poor quality prunes.

Relatively few containers have been used, to date, in the marketing of Idaho prunes. Most shipments have been packed in the half-bushel basket. The 12-pound lug and the 15-pound lug have been used to some extent and recently shipments also have been made in consumer size bags and in various half-bushel cardboard cartons. The container situation, so far, has not been any particular problem in the marketing of Idaho prunes. However, consideration currently is being given to marketing prunes in cardboard cartons fitted with molded plastic trays—called the "pantapak"—and it is anticipated that additional containers will come into use as the industry attempts to develop improved containers for handling its fruit. In similar circumstances, other fruit industries have placed in use so many containers, often varying only slightly in size and capacity, that considerable confusion in the buying and selling of the commodity has resulted. Authority for container regulation should be included in the order, therefore, so that should it become necessary to establish restrictions on the size, capacity, dimensions, and pack of containers used in the marketing of Idaho prunes so as to enable buyers and handlers alike to know the exact quantity of prunes covered by prices quoted and thereby tend to increase trade confidence and stability in the marketing of the fruit, it would be possible to do so.

Therefore, it is concluded that the establishment of the order, providing for the regulation of maturity, grade, size, and quality of shipments of Idaho prunes, and for the establishment of uniform containers to be used for such shipments, is necessary to effectuate the declared purposes of the act. Also, the establishment and maintenance in effect of minimum standards of quality and maturity, when prices are above the parity level, will effectuate such orderly marketing of Idaho prunes as will be in the public interest. The objective under such order is the tailoring of the supply of prunes available for sale in fresh market channels to the demand in such outlet so that the fruit thus made available to buyers will be packaged uniformly and be of desirable maturity, grade, size, and quality. Such limitations on shipments of Idaho prunes should contribute to the establishment of more orderly marketing conditions for such fruit and tend to increase the demand therefor.

(3) The term "prunes" should be defined in the order to identify the commodity to be regulated thereunder, as distinguished from all other kinds of plums. Such term, as used in the order, should include all varieties of the European type of plums, classified botanically as Prunus domestica, grown in the production area covered by the order, except the President variety. The European type plums are the only plums that are grown commercially in the production area and, except for the President variety, such plums are commonly called prunes. The term thus has a specific meaning to growers, handlers, and others who produce and market the commodity.

Evidence was introduced at the hearing both in support of and in opposition to including President plums within the purview of the order. Commercial production of President plums in the production area is relatively small at this time. However, heavy plantings of trees of such plums recently have been made. As such trees come into bearing, production will increase rapidly. It was asserted, therefore, that the producers of President plums soon will be confronted with a difficult marketing situation and that such plums should be included under the order so that the benefits of the order regulations would be available when the potential production is realized. On the other hand, prices for President plums

have been relatively high and grower returns favorable. It will be several years before marketings of President plums increase substantially. President plums are marketed toward the end of the season for the other varieties of plums in the production area that are commonly called prunes. The President plum has characteristics, particularly as to size, shape, and flavor, which differ from those of prunes. On balance, therefore, it is concluded that the President variety should be excepted from the definition.

Several witnesses testified at the hearing to the effect that Brooks and Stanley varieties should not be within the scope of the definition of the term "prunes." Other witnesses testifying offered evidence in support of including these varieties within the scope of the definition of "prunes." Such testimony shows that both varieties belong to Prunus domestica and that they mature at the same time as other varieties of prunes, are marketed at the same time, in the same kind of containers, and in the same markets. There is also some commingling of these varieties with other varieties produced in the production area. It is concluded, therefore, that these varieties should not be excepted from the term "prunes" as defined in the proposed order.

The term "varieties" should be defined in the order, as hereinafter set forth, since it is proposed to provide authority in the order for issuance of separate regulations for different varieties. The principal varieties of prunes grown in the production area are Early Italian, Richards, Milton, Demaris, Brooks, Stanley, Wetherspoon, and Late Italian. Each variety of prunes is a classification or subdivision of Prunus domestica and possesses definitive characteristics which serve to distinguish it. Recognition of different varieties of prunes is common throughout the production area.

A definition of the term "production area" should be incorporated into the order as a means of delineating the area within which prunes must be grown for the handling thereof to be subject to regulation.

Such term should embrace all of the territory within the counties of Washington, Payette, Gem, Canyon, Ada, and Owyhee in the State of Idaho, and Malheur County in the State of Oregon. A 1958 commercial fruit tree census shows a total of 328,152 prune trees in Idaho. About 98 percent of these, or 324,480 trees, are located in the production area. In the entire area north of Washington County, the most northern county of the production area, this survey shows a total of 2,440 prune trees. In the entire area south and east of the production area, this survey shows a total of only 1,227 prune trees. These areas are at somewhat higher elevations, the season is generally later than that of the production area and consequently the prunes from these areas generally do not reach the market until the prunes from the production area are marketed. Also, the areas to the north and east where such prune trees are located are sufficiently removed from the production area to greatly increase the administrative problems should these two areas be included in the production area. Prunes from the aforementioned areas exert little, if any, influence on the commercial prune crop produced in the production area. For these and other reasons, the aforementioned areas should be excluded from the production area at the present time.

It is necessary to include Malheur County, Oregon, in the production area to be covered by the order. A 1958 commercial fruit tree census shows a total of 7,435 prune trees in Malheur County, Oregon. Many of these orchards are located along the Snake River and separated from orchards in Idaho only by State lines. The varieties of prunes produced in Malheur County, Oregon, are the same as those produced in Idaho and the marketing season is the same. Furthermore, the prunes produced in Malheur County, Oregon, at the present time are prepared for market in packing facilities located within Idaho. Such prunes are commingled with Idaho prunes throughout the marketing process. Even though the production of prunes in Malheur County, Oregon, is rather small at the present time, within such county are areas having soil and weather pattern of such nature to be potential production acreages as water is made available. For these reasons, it is necessary that Malheur County, Oregon, be included within the production area.

It is well established that there are areas throughout the production area, because of soil, water, or weather conditions, where prunes are not now or are not likely to be grown. However, it would not be practicable to exclude areas not producing prunes which are within or are adjacent to, the commercial prune production area. To exclude any portion of the production area, as defined, where prunes are now being produced or which is potential production area would tend to defeat the purposes of the order, in that prunes from any such excluded portion which do not meet regulations applicable to regulated fruit could then be marketed free from regulations and thereby depress the prices of the regulated prunes grown in the remainder of such area. Hence, it is concluded that the production area, as hereinafter defined, is the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined in the order to identify the persons who are subject to regulation under the program. Since it is the handling of prunes that is regulated, the term "handler" should apply to all persons who place prunes in commerce by performing any of the activities within the scope of the term "handle," as hereinafter described. In other words, any person who is responsible for the sale, delivery, consignment, or transportation of prunes, or who in any other way places prunes in commerce, should be a handler under the order and be required to carry out such activities in accordance with the order provisions. However, the transportation by a common or contract carrier of prunes owned by another person should not be considered as making such carrier a "handler" as, in such instances, the carrier is performing services for hire and is not responsible for the quality or pack of the commodity. Of course, if the carrier is the owner of the prunes being transported, such carrier would be the handler the same as any other person who may primarily be engaged in another business—such as producer or retailer—but at times is also a handler of prunes.

The term "handle" should be defined to identify those activities that it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place prunes in the channels of commerce within the production area or from the production area to any point outside thereof. The handling of prunes begins at the time the fruit is picked from the trees and includes each of the successive selling and transporting activities until the fruit reaches its final destination. The performance of any one or more of these activities, such as selling, consigning, delivering, or transporting by any person, either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required, except as hereinafter indicated, to limit such handling of prunes to fruit which conforms to the applicable regulations under the order.

There are a few sales of prunes on-the-tree. Also, after picking, it is usual for prunes to be sorted, graded, packed, or otherwise prepared for market at a packing facility in the production area. Such preparation for market may be performed at the orchard where the fruit is grown; and it was testified at the hearing that approximately 50 percent of the total production for fresh market are prepared for market at the orchard where grown. The remaining portion of the prunes for fresh market is transported to the packing facility prior to sorting, grading, and packing. The grower, in such instances, properly relies on the person preparing the prunes for market to see that the fruit which is thereafter shipped meets all applicable requirements for marketing. Moreover, such activities are, of necessity, preliminary to placing the prunes in marketing channels. It would not be practical and would unnecessarily complicate the administration of the order to endeavor to require persons engaged in the preparation of prunes for market to meet the requirements of regulations under the program until after such preparation. Therefore, such activities should be excluded from the definition of "handle." Prunes may be sold, after packing, at the orchard where grown, at a roadside stand, or at a packinghouse to truckers and others who transport the prunes from such points to markets within and without the said States. The sale or delivery of prunes to such persons, and the subsequent movement to market, are handling transactions. Any person who engaged in any such transaction, whether grower, packinghouse operator, trucker,

or others, would therefore be a handler under the order by virtue of such transaction. Each such person should have the responsibility of assuring himself that the prunes he handles meet all applicable regulations in effect at the time of handling. Compliance with the regulations which are authorized by the order can readily be determined by the person who is responsible for grading and otherwise preparing the prunes for market. The primary responsibility for determining whether a particular lot of prunes conforms to the applicable regulations should rest with the person who places such lot in the current of commerce. In most cases, such person will be the one who was responsible for grading and preparing the prunes for market. However, all subsequent handlers also should be responsible for seeing that any regulations applicable to the prunes are met at the time such persons handle the prunes. This can readily be ascertained by determining that the prunes have been inspected and certified as meeting such regulations or by having them inspected. As all handling of prunes is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that, except as indicated herein and as specifically exempted by the act and order, all sales, consignment, delivery, or transportation of prunes within the production area or between the production area and any point outside thereof should be subject to the order and any regulations issued pursuant thereto.

(5)(a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used througout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee—the agency which will administer the program locally—are to be maintained. At the present time, it is desirable to establish a 12-month period ending May 31 as a fiscal period. Such a period would fix the end of one fiscal period and the beginning of the next at a time of inactivity in the marketing of prunes. This would facilitate fixing the term of office of members and alternates to coincide with such period as it would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year, and would still insure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, it was testified that for reasons not now apparent it may be desirable at some future time to establish a fiscal period other than one ending May 31, and that authority should be included in the order to provide for such establishment subject to approval of the Secretary pursuant to recommendations of the committee. Therefore, it is concluded that such term should be defined as hereinafter set forth to provide this flexibility.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act, and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is referred to.

Definitions of "grade" and "size" should be incorporated in the order to provide a basis for expressing grade and size limitations thereunder, and thus to enable persons affected thereby to ascertain the extent and application of grade and size limitations. "Grade" should be defined as any one or more of the established grades of plums or prunes as defined and set forth in (1) "United States Standards for Fresh Plums and Prunes" issued by the United States Department of Agriculture, effective May 22, 1958, which standards were published in the FEDERAL REGISTER (23 F.R. 3509), or (2) amendments to any grades set forth in such standards, or modifications thereof, or variations based thereon. Such definition would provide the flexibility necessary to cope with the possible seasonal variations in prunes due to detrimental effects of weather or other possible hazards affecting the crop. The United States Standards or modifications thereof (the Idaho Hail Grade for Prunes issued by the State of Idaho Department of Agriculture is considered a modification of the aforementioned United States Standards) have been used by the Idaho prune industry for a number of years. Such standards therefore provide appropriate bases for describing grade limitations.

Prunes are usually sized while being prepared for market. This is sometimes accomplished by placing a series of rollers in the packing line and so spacing them that prunes having a diameter measurement smaller than 1⅛ inches in diameter are removed. At some packing facilities, sizing is done by having the sorters remove the small prunes from the line without the aid of sizing equipment. It is the general practice to include in the same package the prunes which measure 1⅛ inches in diameter or larger. Occasionally, however, prunes smaller than 1⅛ inches in diameter have been marketed. Also, some handlers have packed to a larger minimum diameter than 1⅛ inches. It was testified at the hearing that prunes are generally uniform in size and the range of diameter is generally between 1⅛ inches and 1¾ inches. However, in the case of Wetherspoon, the diameter may reach 2 inches. Testimony also shows that when prunes have been packaged more uniformly sized, as, for example, a range from 1$\frac{3}{16}$ inches to 1½ inches, such sales have commanded more money. Thus it may be desirable to regulate the size of prune shipments by fixing the minimum diameter, perhaps greater than 1⅛ inches, below which prunes could not be handled or by specifying the range in diameter, which prunes would be required to meet when packed in a particular container. Therefore, it is concluded that the term "size" should be defined in terms of minimum diameter, or such other specifications as may be established by the committee with the approval of the Secretary.

The term "pack" is commonly used throughout the prune trade and refers to a combination of factors relating to the grade, size, quality, and quantity of prunes in a particular type and size of container. Under certain circumstances, it may be desirable to regulate shipments of prunes on the basis of particular grades or sizes, or both, that may be shipped in a specific container or containers. Hence, it is concluded that pack should be defined as hereinafter set forth.

The term "grower" should be synonymous with "producer" and should be defined to include any person who is engaged, within the production area, in the production of prunes for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as eligibility to vote for, and to serve as, a grower or alternate grower member on the Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee and for other reasons. The term "grower" should, therefore, be defined as hereinafter set forth.

"District" should be defined as set forth in the order to provide a basis for the nomination and selection of committee members. The districts (i.e., the geographical divisions of the production area as established and as set forth in the order) represent the best basis which could be devised at this time for providing a fair, adequate, and equitable representation on the committee. The provision for redistricting is desirable because it allows the committee and the Secretary to consider, from time to time, whether the basis for representation on the committee should be changed.

"Export" should be defined in the order to mean to ship prunes to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States. Shipments of prunes to points outside of the continental United States may be of different grades, sizes, or qualities than those shipped to

domestic markets. This results from different market demands as between domestic and other markets. Different or special regulations, or even no regulations, could, therefore, be made effective when warranted, with respect to such shipments out of the continental United States. It was testified in this connection that, because of the distances involved and characteristics of these markets, a similar situation exists with respect to Alaska and Hawaii and, for the purposes of the order, the term "export" should include shipments of prunes to Alaska and Hawaii.

The term "container" should be defined in the order to mean a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging, or handling of prunes. The definition of the term is needed to serve as a basis for differentiation among the various shipping receptacles, in which prunes are sold or move to market, for which different regulations could be applicable.

(b) It is necessary to establish an agency to administer the order locally under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 10 members, of whom 6 would represent producers and 4 would represent handlers. Alternate members should be provided to act when necessary in the place and stead of the members. Such a committee would be large enough to provide representation to all segments of the industry. At the same time, it is of such size that it can operate effectively and efficiently. The foregoing division of the members between producers and handlers would provide suitable producer representation and handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee by providing the handler experience and marketing information necessary to the development of economically sound regulation of prune shipments. Each handler member should be either a handler, or an officer or an employee of a handler, as handlers often are corporations and would be precluded from having representation on the committee unless such persons were authorized to serve as members of the committee. There are also growers in the production area which are corporations and their officers and employees should be similarly eligible for grower membership on the committee. Each district should be represented on the committee by 2 grower members and 1 handler member and their respective alternates. One additional handler member and his alternate should represent the production area at large. However, provision to reapportion membership on the committee among districts should be provided so that, if it becomes apparent that through shifts in production, reestablishment of districts, or other reasons such representation is inappropriate, the Secretary may, upon recommendation of the committee, make such reapportionment as he finds necessary.

Each producer or handler member of the committee, and his alternate, except the handler member and his alternate selected from the production area at large, should be a producer or handler (or officer or employee of a corporate grower or an officer or employee of a handler), as the case may be, of prunes in the district for which selected. A person with such qualifications should be intimately acquainted with the problems of producing or marketing prunes grown in such district and may be expected to present accurately the problems incident to the production or handling of prunes grown in that district.

The handler member and his alternate selected from the production area at large would be acquainted with the problems of marketing prunes grown in the production area and may be expected to present accurately the problems incident to the handling of prunes from the production area. The evidence of record shows that, while it would be desirable for each district to be represented on the committee by a handler member whose handling facilities are located in that district, all handlers in the production area should participate in the election of nominees for the handler members. The production area is relatively small in size and handler problems are generally the same throughout all districts. The larger handlers often handle prunes in more than one district. Meetings of handlers representing the production area rather than district meetings are general. Therefore, in addition, to being familiar with the problems in his own district, each handler member and his alternate are likely also to be familiar with handler problems throughout the production area.

The term of office of committee members and alternates under the proposed program should be for two years beginning on the first day of June and continuing until May 31. This will establish an orderly procedure for changing the membership of the committee. The term of office should be for two years so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service assisting the Secretary to carry out the declared policy of the act. The beginning of each term of office will occur during a period prior to the commencement of a marketing season and hence allow adequate time for the committee to organize and start operating.

Provision should be made in the order for staggered terms of office of committee members and alternates. Under this provision, one-half of the committee in office on May 31 of each year would continue in office until the next year. The establishment of such staggered terms will tend to provide for more efficient administration of the program, in that members and alternates constituting the new portion of the committee membership will benefit from the guidance of experienced members who carry over. The experienced members will help insure continuity of the policies and procedures relating to the administration of the proposed order which should contribute materially to the successful administration of the marketing program. Hence, the terms of office of one-half of the initial committee members and alternates should be from the time of appointment until the following May 31 and the other one-half from the time of appointment until the second following May 31. Committee members and alternates should serve during the term of office for which selected, and until their successors are selected and have qualified to insure continuity of committee operations.

A procedure for the election by growers and handlers of nominees for membership on the committee should be prescribed in the order to assist the Secretary in his selection of members and alternate members of the committee. It is recognized that the Secretary is vested with authority under the act to select the committee members; and the nomination of prospective members and alternate members at meetings of growers in the respective districts, and a meeting of handlers representing the entire production area, is a practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee.

Nomination meetings for the purpose of electing nominees for members of the committee and their alternates should be held or caused to be held by the committee on or before May 1 of each year. Such date is approximately 4 weeks prior to the end of the fiscal period. By having such nomination meetings not later than May 1 each year, the committee will be in a position to prepare and submit nomination lists to the Secretary in time for the Secretary to select the members and alternate members of the new committee prior to the expiration of the terms of office of the existing committee members.

As the administrative committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. The Secretary may appropriately select the initial grower and handler committee members and alternates from nominations which may be made by growers and handlers, respectively, or appropriate groups thereof, or from other eligible persons; and the order should so provide. In order that the initial membership of the committee may be selected as soon as possible after the approval of the program, it should be required that such nominations be submitted not later than the effective date thereof.

The order should provide that only growers who are present at the nomination meetings, or corporate growers who are represented at such meeting by duly authorized agents, may participate in designating nominees for grower members and alternates, and only handlers present at nomination meetings or han-

dlers represented at such meetings by duly authorized agents may participate in the nomination of handler members and alternates.

It was testified that each grower and handler should have a similar and equitable voice in the election of nominees. Hence, if a person is qualified to vote both as a grower and a handler, he should select the group with which he wishes to participate. Such persons should not be authorized to vote both as a grower and as a handler because this would enable him to participate in nominations to a greater degree than persons who are growers only or handlers only. Also, each grower and handler should be limited to one vote on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates regardless of the number of districts in which he produces or handles prunes. If a grower or handler could cast more than one vote by reason of operating in more than one district, such person would have an advantage in selecting nominees over growers or handlers operating in only one district. Also, if more than one vote was permitted, there is a possibility that large growers or handlers could dominate the elections by means of their partners, agents, subsidiaries, affiliates, and representatives, and nominate growers and handlers not favored by a majority of growers or of handlers. An eligible grower's or handler's privilege of casting only one vote should be construed to mean that one vote may be cast for each applicable position to be filled.

A grower who produces prunes in more than one district should be permitted to select the district in which he will vote. He will thus be able to vote for nominees where he believes his main interest lies.

In order that there will be an administrative agency in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternates without regard to nomination if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed promptly after the notification of appointment so that the composition of the committee will not be delayed unduly.

Provision should be made as set forth in the order for the filing of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The committee should be given those specific powers which are set forth in § 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, in that it may develop that there are other duties which the committee may need to perform.

With respect to the provision set forth in § 1030.31(m) providing for redistricting and reapportionment of membership on the committee, such provision is necessary to enable the committee and the Secretary to consider from time to time whether the basis for representation has changed or could be improved and how such improvement should be made. The division of the production area into the three districts set forth in the order is a logical one at the present time from the standpoint of production, weather conditions, and geographic location. However, shifts or other changes which may take place in the future due to increased or decreased production cannot be foreseen. Additional land suitable for prune production is being made available within the production area through irrigation. Decreased acreage may result from damage caused by weather hazards. Therefore, it is desirable to provide flexibility of operation so that if it should be in the best interest of the administration of the order to change the boundaries of districts, change the number of districts, or reapportion the representation on the committee among districts, the committee may so recommend, and the Secretary may take such action.

At least 7 members of the committee, or alternates acting for members, should be present at any meeting in order for the committee to make any decisions; and all decisions of the committee should require a minimum of 7 concurring votes.

The order should provide that in the event neither a grower member nor his alternate is able to attend a meeting, such member or the committee may designate the other alternate member from the same district who is not acting as a member to serve in such grower member's place and stead.

In the event both a handler member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate handler who is not acting as a member to serve in such member's place and stead. Such provisions will tend to assure that there will be 10 members, or alternates acting for members, in attendance at all committee meetings.

In addition to meetings held where the committee is assembled together in one place, the committee should be authorized to vote by telephone, telegraph, or other means of communication when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting or when rapid action is necessary because of an emergency. Any votes cast in this fashion should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person.

It is appropriate that the members and alternates of the committee may receive compensation for the time spent in attending committee meetings. The order authorizes a maximum of $10.00 per day for this purpose, since the time so spent is usually at financial sacrifice to their personal businesses. While the payment of an amount not to exceed $10.00 per day will not, in most cases, fully compensate for the time such members and alternates spend away from their personal businesses, there are producers and handlers in the production area who are willing to represent the industry by serving on the committee regardless of the personal sacrifice involved. The order should also provide for reimbursement of actual out-of-pocket reasonable expenses incurred on committee business since it would be unfair to request the members and alternates to pay for such expenses incurred in the interest of all prune growers and handlers in the production area.

In order for an alternate adequately to represent his district at any committee meeting in place of an absent member, it may be desirable that he should have attended previous meetings along with the member, so as to have a full understanding of all background discussions leading up to action that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members could be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often important for the committee to obtain as wide a representation as practical of producers and handler attitudes toward a proposed regulation or other matter. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members, when a situation so warrants. The same compensation and reimbursement that are available to members should also be made available to alternate members when they are so requested and attend such meetings as alternates.

Provision should be made in the order whereby each committee will prepare an annual report prior to the end of each fiscal period. Such reports would provide committee members, the industry, and the Secretary with a record of the annual operations of the program and would provide a means for evaluation of the program and the need for any changes therein.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal period for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the provisions of the order, determine to be appropriate. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by an administrative agency, such as the Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee, and requires that each marketing program of this nature contain provisions requiring handlers to pay prorata the necessary expenses. Moreover, in order to assure the continuance of the committee, the payment of assessments should be required even if particular provisions of the order are suspended or become inoperative.

Each handler should pay to the committee upon demand with respect to all prunes handled by him as the first handler thereof his pro rata share of such expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal period. Each handler's share of such expenses should be equal to the ratio between the total quantity of prunes handled by him as the first handler thereof during the applicable fiscal period and the total quantity of prunes so handled by all handlers during the same fiscal period. In this way, payments by handlers of assessments would be proportionate to the respective quantities of prunes handled by each handler and assessments would be levied on the same prunes only once.

In order to provide funds for the administration of this program prior to the time assessment income becomes available during the fiscal period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders, and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are being made in an appreciable amount. There was no objection offered at the hearing to indicate that any person was opposed to the proposal for the committee to borrow a limited sum of money each fiscal period. During years of normal growing conditions, revenue available to the committee from assessments would provide the means for the repayment of any such loan. In addition, as hereinafter set forth, provision should be made for increasing the rate of assessment in the event it should develop that due to some unforeseen circumstances the assessment income under the then prevailing rate is not sufficient to cover the expenses incurred.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the proposed order for such period. Each such budget should be presented to the Secretary with an analysis of its components and explanation thereof in the form of a report on such budget. It is desirable that the committee should recommend a rate of assessment to the Secretary which should be designed to bring in during each fiscal period sufficient income to cover authorized expenses incurred by the committee including the accumulation and maintenance of an operating reserve.

The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a fair and equitable unit basis, such as a container, ton, or other quantity measurement.

The Secretary should have the authority, at any time during a fiscal period, or thereafter, to increase the rate of assessment when necessary to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee applicable to such period. Since the act requires that administrative expenses shall be paid by all handlers pro rata, it is necessary that any increased rate apply retroactively against all prunes handled during the particular fiscal period.

Except as necessary to establish and maintain an operating reserve as set forth in the order, handlers should be entitled to a proportionate refund of any excess assessments which remain at the end of a fiscal period. Such refund should be credited to each such handler against the operations of the following fiscal period so as to provide the committee with operating funds prior to the start of the ensuing shipping season; but, if a handler should demand payment of any such credit, the proportionate refund should be paid to him. However, good business practice requires that any such refund may be applied by the committee first to any outstanding obligations due the committee from any person who has paid in excess of his pro rata share of expenses.

In most years shipment of prunes begins about the third week of August and is usually completed by the middle of October. The fiscal period starts on June 1, and, therefore, the committee must operate during June, July, and the first half of August with no current assessment income. The period immediately prior to the shipping season will be the period of greatest activity as the committee will be surveying the crop and marketing situation, developing a marketing policy, and holding meetings to develop recommendations for regulations. This means that in all probability at least one-half the committee's expenses will ordinarily be incurred before any current fiscal period income is collected.

An operating reserve is an important instrument for the continued effective operation of the order over a period of years. The production area is susceptible to hail storms and rain just prior to and during the harvesting period, and to frost damage at the time of bloom and fruit set. Severe freezes during the winter often damage trees and reduce the crop in succeeding years. The assessment rates under the program are set at the beginning of the season for a crop of an estimated volume of shipments. Should crop failure or partial crop failure reduce the crop so that assessment income falls below expenses, it would be necessary for handlers in light of the reduced crop to cover the deficit. When the handlers have already made returns to growers, it would be very difficult for them to obtain from such growers the additional funds required to meet the increase in assessment that would be necessary. It would also constitute an extra burden on the industry to increase the assessment rate after disasters such as these have occurred.

Because of the hazards incident to the production of prunes, and the difficulties thus expected to be encountered in financing operations of the program during some years, it would be desirable to rely on an operating reserve for use during any such year. Evidence presented at the hearing was to the effect that nearly all of the production of prunes is marketed year after year by the same handlers and that it would be equitable to all handlers, and far less burdensome to them, to contribute to the establishment of such an operating reserve during years of normal production rather than to be required to pay a high rate of assessment occasioned by a deficit during a year when the crop is materially reduced. The proposed reserve fund should be built up gradually over a period of years to the desirable amount. Discretion should be used so as not to impose excessively high assessments or delay the attainment of the full amount in the reserve too long, since a material reduction in the crop could occur at any time. It was indicated that it would be appropriate, and in keeping with the desires of the industry, to include in the annual budget a specific amount for the reserve fund as well as to use any other excess assessment funds available at the end of a fiscal period for this purpose. In order that such reserve funds not be accumulated beyond a reasonable amount, it was proposed that a limit of approximately one fiscal period's expenses be provided. It was shown that such an amount should be sufficient to cover any foreseeable need since some income from assessment may be expected during any year. After the reserve has been built up to that amount, excess assessment income should thereafter be returned to the handlers entitled to refunds in accordance with the provisions of the order. However, in keeping with the need for the reserve fund, whenever any portion of it is used, the full amount withdrawn should be returned to the reserve as soon as assessment income is available for this purpose.

The reserve fund should be used, with the approval of the Secretary, to cover costs of liquidation of the program in the event the order is terminated, as well as to cover necessary operational costs, such as for salaries and other necessary expenses, during any period when the order, or any of its provisions, should be suspended. It is possible, of course, that the program may be terminated at the end of a fiscal period, or during a year when the production of prunes is relatively light. In such circumstances, it would be burdensome to handlers to require payment of an assessment to cover the liquidation costs. All handlers receive benefits from the program's operation; and, even if a handler ceases handling prunes before the full time of its operation has expired, it would be appropriate and equitable for such handler to share in the expense of liquidation. Should the order provisions be suspended, it is likely such suspension would occur during a period when prune production has been seriously curtailed. It would seem reasonable and proper, therefore, to use the reserve funds to defray any expense of liquidation or any necessary cost of operation during a period of suspension. It is anticipated, of course, that the committee will endeavor to minimize costs in this regard as far as reasonably practicable consistent with the efficient performance of its responsibilities.

Upon termination of the order, any funds in the reserve which are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. It is apparent, from the evidence of record, that it may not be possible to make an exact distribution of any such funds. Should the order be terminated after many years of operation, and there have been several withdrawals and redeposits in the reserve, the precise equities of handlers may be difficult to ascertain and any requirement that there be a precise accounting of the remaining funds could involve such costs as to equal or even exceed the monies to be distributed. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances. In view of the foregoing, it is, therefore, concluded that authority should be provided, as hereinafter set forth, to permit the establishment and use of a reserve fund.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purposes of the order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. The committee should provide the Secretary with periodic reports at appropriate times, such as at the end of each marketing season or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the committee's activities and operations. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee, should be required to account for all receipts and disbursements, funds, property, and records for which they are responsible, should the Secretary at any time ask for such an accounting. Also, whenever any person ceases to be a member or alternate member of the committee, he should similarly be required to account for all funds, property, and other committee assets for which he is responsible and to deliver such funds, property, and other assets to such successor as the Secretary may designate. Such person should also be required to execute assignments and such other instruments which may be appropriate to vest in the successor the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

(d) The order should provide, as hereinafter set forth, authority for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of prunes.

Through the medium of research investigation, the committee should be able to assemble and evaluate data on growing, harvesting, shipping, marketing, and other factors with respect to prunes which would be of value in determining what regulations should be established, in accordance with the act and the order, for the benefit of the prune industry in the production area. As the committee becomes more aware of the value and need for marketing research and development, other projects will undoubtedly be initiated, the need for which may not have been foreseen during the course of the hearing.

The committee should be empowered to engage in such projects (except advertising and sales and trade promotion projects which are not permitted by the act), to spend assessment funds for them, and to consult and cooperate with appropriate agencies with regard to their establishment. The committee may be limited by the lack of facilities and trained technicians in carrying out any such projects; and it should be authorized to enter into contracts for their development with qualified agencies such as State universities, and public and private agencies. Prior to engaging in any such activities, the committee should, of course, submit to the Secretary for his approval the plans for each project. Such plans should be set forth in detail, including the cost and the objectives to be accomplished, so as to insure, among other things, that the projects are within the purview of the act. The cost of any such project should be included in the budget for approval, and such cost should be defrayed by the use of assessment funds as authorized by the act.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for prunes, among other commodities, as will tend to establish parity prices therefore, and to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements as will be in the public interest. The regulation of prune shipments by maturity, grade, size, or quality, or any combination thereof, as authorized in the order, provides a means of carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, and prior to recommending regulation of prune shipments, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers of prunes. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the committee's plans for regulation and the basis therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory actions are being considered, since it would provide basic information necessary to the evaluation of such regulation.

In preparing its marketing policy, the committee should give consideration to the supply and demand factors, hereinafter set forth in the order, affecting marketing conditions for prunes since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The committee should be permitted to revise its marketing policy so as to give appropriate recognition to the latest known conditions when changes in such conditions since the beginning of the season are sufficiently marked to warrant modification of such policy. Such action is necessary if the marketing policy is to appropriately reflect the probable regulatory proposals of the committee and be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

The committee should, as the local administrative agency under the order, be authorized to recommend such maturity, grade, size, and quality regulations, as well as any other regulations and amendments thereto authorized by the order, as will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and increased growers' returns for prunes. The committee should, therefore, have authority to recommend such regulations as are authorized by the order whenever such regulations will, in the judgment of the committee, tend to promote more orderly marketing conditions and effectuate the declared policy of the act.

When conditions change so that the then current regulations do not appear to the committee to be carrying out the

declared policy of the act, the committee should have the authority to recommend such amendment, modification, suspension, or termination of the existing regulations, as the situation warrants.

The evidence of record shows that the production area is susceptible to hail storms. The producer has no control over such conditions; and, because of this, one witness proposed that special exemption provisions applicable to individuals who sustained hail damage be provided in the order. Under this proposal each individual would be required to present evidence to the committee, in support of his request, and an affirmative vote of at least seven members of the committee would be required for such exemption to be approved. This witness testified that the extent of hail damage varies from severe to light and that it was not his intent, nor would it be in the best interest of the industry, to permit all hail damaged fruit to be marketed. It was stated that prunes so extensively damaged by hail that they would fail to meet the requirements of the Idaho hail grade should never be shipped since prunes of such poor quality could be expected to return little more than the marketing costs. It was his belief, however, that the committee might be reluctant to recommend a lowering of existing regulation requirements to permit hail damaged prunes to be marketed, particularly if only the fruit of a few growers was involved, since such action would inform the receivers of prunes in the principal markets that the area had suffered hail damage and such information might affect the market more adversely than exemptions issued to growers on an individual basis. Such belief is not supported by the record which shows that any adverse weather conditions affecting the quality of the prune crop in the production area, or any portion thereof, is a matter of general knowledge throughout the receiving markets almost as soon as the extent of the damage is known in the area. Provision is made in the order for the modification, suspension, or termination of regulations specifically for the purpose of giving recognition to changes in growing and other conditions, including hail damage, following the time when the regulations were recommended and placed in effect. The evidence of record shows that the committee members would be aware of the extent of the area affected and the degree of severity of damage, not only by hail storms but also from rain or other causes which at times affect the crop, and would be in a position to recommend to the Secretary any needed changes in the existing regulations. Such actions probably could be taken more rapidly, and would be less burdensome to both the producer and the committee, than to issue exemptions on an individual basis which would require checking of each individual orchard on which the grower had applied for an exemption. It is concluded, therefore, that the proposed provisions for the issuance of exemptions on an individual basis is not needed and should not be included in the order.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to issue various grade, size, quality, and other appropriate regulations which tend to improve growers' returns and to establish more orderly marketing conditions for prunes. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, or amendments or modifications thereof, as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy, he should have authority to suspend or terminate the regulation, in accordance with the requirements of the act.

The maturity, grade, size, and quality of prunes, which are shipped at any particular time have a direct effect on returns to growers. The poorer grades, and less desirable sizes, of prunes marketed return lower prices than do better grades and sizes. A restriction, under the order, of the shipment of prunes of low grade should result in higher returns for the better grades marketed by eliminating the price depressing effect of poor quality prunes.

Evidence presented at the hearing shows that handlers often have shipped in fresh fruit channels immature prunes and prunes of poor grade and quality and of undesirable size. Such prunes may be sold only at discounts, and the returns from such sales often do not cover the cash costs of harvesting and marketing. In addition, such sales have tended to depress the prices for the entire crop, for the particular year, below the level which otherwise would have existed if only prunes of suitable maturity, grade, size, and quality, considering the supply and demand conditions for such fruit, had been available in the markets.

The demand for particular grades, sizes, and qualities of prunes varies depending upon the volume of supplies available, the grade, size, and quality composition of such supplies, the availability of competing commodities, and other factors such as the trend and level of consumer income. The supply conditions for prunes are subject to substantial changes during a particular season as the result of weather conditions affecting the volume and quality of the crop.

The grade, size, and quality composition of the prune crop, and the volume of the available supply for the season as a whole and for any particular period during the season, are important factors which must be considered in establishing regulations. There is generally a sufficient volume of prunes harvested in the production area so that the shipment of only the better grades, sizes, and qualities of prunes to fresh market could fill market demands. It was testified that the shipment of immature, excessively small, and poor quality prunes has resulted in consumer dissatisfaction which has been reflected in reduced demand and lowered returns to growers. Therefore, the order should provide for the establishment by the Secretary of regulations by maturity, grade, size, quality, or combinations thereof, based upon limitations recommended by the committee or other available information; and such regulations should cover such period or periods as it is determined is warranted by the anticipated supply and demand conditions. In making its recommendations for such regulations, the committee should consider the heretofore enumerated supply and demand factors. The committee, because of the knowledge and experience of its members, should be well qualified to evaluate such factors and to develop economically sound and practical recommendations for regulations and to advise the Secretary with respect to the supply and demand conditions under which the prune crop will be marketed.

Several different varieties of prunes are grown in the production area. Principal varieties are Early Italian, Richards, Brooks, Milton, Demaris, Stanley, Wetherspoon, and Late Italian. Each variety of prunes has certain characteristics which serve to distinguish it from other varieties.

If it is found that application of the same regulation to several similar varieties would not result in inequities for some such varieties, this practice should be followed. It is contemplated that the same terms of regulation may be made applicable to such varieties as Early Italian, Demaris, Richards, and Milton, as such varieties apparently have very similar characteristics. However, some varieties are known to have such dissimilar characteristics as to make it impractical to cover all varieties with an identical regulation.

For example, the Stanley variety possesses a shape distinctly different from any other variety of prunes. The Brooks variety has a color which is distinctive and quite different from the color of other varieties of prunes. This variety generally does not attain as intense purple color as is characteristic of other varieties of prunes. The Wetherspoon variety generally attains a larger size than other varieties of prunes. Authority for establishment of different regulations by variety will permit recognition of these factors. Therefore, because of the differences which exist in varieties, and the fact that application of identical regulations to all varieties may be unnecessarily restrictive for some varieties, it is concluded that the order should provide authority for issuance of different regulations for different varieties. Recognition of different varieties of prunes is common throughout the production area. Inspection representatives testifying at the hearing said they did not anticipate any difficulty in identification or inspection if different limitations are established for different varieties having distinguishable characteristics.

Authority should be included in the order for the committee to recommend and the Secretary to fix the size, weight, capacity, dimensions, or pack of the containers which may be used in the packaging or handling of prunes.

The principal containers used in the shipment of prunes are the 30-pound half-bushel basket, which is most generally used; the half-bushel box; the 12-pound lug; and the 15-pound lug.

The 15-pound lug is generally used for export shipments to Canada. The basic inside dimensions of the lugs are 15 x 10½ x 4 inches. The difference in net weight per lug is adjusted by the addition of a cleat, the thickness of which is in proportion to the net weight desired, or by the fullness of the pack. Shipments have also been made in consumer size bags and in cardboard cartons of approximately 30-pound net weight capacity. Since only the half-bushel basket has been used to any great extent in the marketing of Idaho prunes, there has been no particular marketing problem insofar as containers are concerned. However, it is contemplated that additional containers soon will be used and it may be necessary and desirable to institute container regulations to prevent practices that may adversely affect returns to growers and to promote more orderly marketing of prunes. The standardization of containers, should conditions develop to warrant such action, to those most suitable for the packing and handling of prunes and prescribing the use of containers of sizes and capacities which can readily be distinguished from each other, would tend to establish more orderly marketing conditions and increase growers' returns.

The exercise of the authority to regulate containers, however, should not be used to close the door on experimenting with new containers or to prevent the commercial use of any new or superior containers which may be developed.

The order also should contain authority to regulate the packs of containers, including the authority to restrict the particular grades and sizes of prunes that may be packed in different containers. This would assist the prune industry in the production area in its merchandising efforts to provide the most acceptable packs to enhance trade reputation. At present, the principal packs used for prunes in the production area are the 30-pound half-bushel basket, either ring-faced or loose, the half-bushel box, the 12-pound lug, the 15-pound lug, loose for export to Canada, the 30-pound cardboard carton, and 1- and 2-pound plastic bags. Good commercial practice requires a tight pack which prevents shifting of the fruit in the container, as such shifting bruises or otherwise damages the fruit. Prunes which are of uniform and larger size generally are preferred in most markets. The authority for pack regulation would enable the committee to prescribe requirements as to uniformity of size apart from grade standards, so as to insure trade confidence with respect to uniformity of size.

The use of a cardboard container fitted with molded plastic trays is currently being considered by some handlers as a container for the packing and marketing of prunes. The "cups" in such trays are designed to hold a particular size of prunes, and trays with varying sizes of cups would be used for the several sizes of prunes. While the packing of half-bushel baskets with prunes of 1⅛ inches in diameter and larger has generally been satisfactory, such packs which run largely to prunes of the minimum diameter and with few prunes larger than the 1⅛ inch minimum often have been difficult to sell and have been heavily discounted. Thus it appears that should prunes of the 1⅛ inches minimum size only be packed in the molded trays such pack generally would also be discounted heavily and would tend to lower the level of market prices. It may be desirable, therefore, to establish minimum size requirements applicable to packs in certain containers which are different from those applicable to other packs.

Currently, research is being conducted in the development of better types of containers and packs for fruits. Considerable attention has been given to consumer packs. It is contemplated that such packs will be developed and used for prunes. It is essential that authority be included in the order for prescribing pack limitations designed to protect the reputation of packs which are found to be superior, including those for which a demand has been built through research and development. If it is found that the demand for prunes is enhanced in certain containers when a particular manner of arrangement, grade, or size is used, it may be desirable to prescribe the grade, sizes, and method of arrangement which may be used in specified packages. Therefore, it is concluded that the order should contain authorization to so prescribe.

Many foreign countries have restrictions with respect to importation of fruits. For example, Canada, a principal export market for Idaho prunes, has container and quality requirements for fruit commodities imported into that country. Such requirements are subject to change. Consumers in export markets may prefer prunes of sizes, grades, or qualities which differ from those desired by consumers in the United States. Hence, the order should include authority to limit the shipments of prunes to export markets to grades, sizes, packs, containers, or combinations thereof, which are different from those permitted to be shipped to the domestic market. Because of the distance and the special market conditions which are similar to export, shipments to the States of Alaska and Hawaii, insofar as this order is concerned, should be considered as exports.

It is not in the public interest to cease regulation when the season average price of prunes exceeds parity. The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity, in terms of grades or sizes, or both, and such grading and inspection requirements, during any and all periods when the season average price for prunes may be above parity, as will effectuate such orderly marketing of prunes as will be in the public interest. Some prunes do not give consumer satisfaction regardless of the price level. Immature prunes, deteriorated prunes, and prunes of very small sizes are examples of the type of fruit that is wasteful and does not represent a value to the consumer and should not be shipped.

The shipment of insufficiently mature prunes or fruit lacking in the quality necessary to assure delivery in satisfactory condition would cause an adverse buyer reaction and would tend to demoralize the market for later shipments of such fruit. Such undesirable fruit has been marketed in the past and undoubtedly would again be marketed in the absence of regulation when the season average price is above parity. Hence, the discontinuance of regulations during seasons when the average price exceeds parity could adversely affect consumers and also result in dissipation of all benefits from the prior operation of the program.

Adverse growing conditions and weather factors may cause some fruit to develop abnormally, or so affect the quality that it would not be in the public interest to permit its shipment. This possible development depends on the conditions in the particular season. It is necessary, therefore, that the provisions of the order contain the flexibility needed to reflect such conditions. Hence, the specific minimum standards of quality and maturity that may be made applicable during a particular year should be established by the Secretary upon the basis of the recommendations of the committee, made after review of the existing conditions that year, or other available information.

It was proposed in the order set forth in the notice of hearing that authorization be provided to prohibit shipments of prunes during periods of not to exceed 96 hours. In conjunction with such prohibition of shipments, generally called a "shipping holiday," the packing and loading of prunes would be discontinued so as to prevent immediate heavy shipments of prunes, following the shipping holiday, to offset the gains expected to be derived from the cessation of shipment during the prescribed period.

The evidence of record shows that there is need, at times, for some limitation on the total quantity of prunes handled. During seasons of heavy supplies, when growers in all districts are harvesting prunes, shipments of prunes often exceed the demand therefor at prevailing prices. It was pointed out that the buyers of prunes in the terminal markets operate on the basis of a 5-day work week, while the harvesting, packing, and shipping of prunes during the peak shipping period continues each day of the week. Hence, the seller, on Monday, must endeavor to sell the unsold carloads of prunes, commonly called "rollers," shipped on Saturday and Sunday, in addition to those being shipped that day. This places the seller in a weak position, and buyers are quick to take advantage of the situation and force price concessions. The market decline, once under way, may continue until prices are reduced to little more than marketing costs, and the harvesting and shipping of prunes are temporarily halted.

While there was general agreement among those testifying at the hearing concerning the desirability of temporarily discontinuing the shipment of prunes for limited periods when all districts are harvesting and shipping prunes, there was considerable controversy over the amount of activity that should be continued during the proposed

shipping holiday. It was contended by some that all packing of prunes should be prohibited at such times or the heavy loadings and shipments of prunes immediately thereafter would nullify the purpose of the holiday. However, others contended that at the time when the shipping holiday regulation would be effective, prunes are in prime condition for storage and that the packing of prunes for storage should be exempted from any such packing prohibition. It was stated that these stored prunes normally are not marketed until toward the end of the season when shipments of other prunes have declined substantially or ceased and do not contribute to the surplus of prunes available for sale during the period of peak shipments. Some argued that it would be necessary to limit any packing for storage during the shipping holiday period to prunes which would be stored within the production area for post season shipment since, otherwise, the committee could not check compliance with the regulations. Others expressed the opinion that the committee would be able to establish procedures to effect compliance with the regulations and that no limitations should be placed on the packing of prunes for storage purposes. It was pointed out, in this connection, that the prunes in certain orchards possess superior keeping qualities and that, historically, these prunes are packed at the time when they have attained the maximum storage quality and then are shipped direct to the terminal markets for storage. It was stated that any limitation on packing of these prunes would be unduly burdensome in that (1) if no packing of prunes were permitted during the shipping holiday period, such regulations might be imposed at the time when such prunes were of prime storage quality and to delay the packing of the prunes until after the shipping holiday would reduce substantially the keeping quality of the fruit, and (2) if the packing of prunes only for storage within the production area were permitted during the shipping holiday, there would be added expense over that incurred when the prunes are shipped direct to the terminal markets for storage.

The record also indicates that there generally has been some shortage of harvesting and packing labor during the period when the growers in all districts are harvesting prunes. Should the proposed shipping holiday regulation be imposed over Saturday and Sunday, when it was indicated this regulation would most likely be used, growers and shippers would be unable to utilize temporary labor, such as students and teachers, who often assist in the harvesting and packing of prunes. Also, it was asserted that should a grower have an orchard in which the harvesting of prunes had nearly been completed at the time a shipping holiday regulation was imposed, the pickers employed in that orchard probably would secure other work and not return to complete the harvesting of the crop.

It is evident from the evidence of record that the full effect of the proposed shipping holiday regulation has not been thoroughly considered by the industry. Therefore, it is concluded that the authority for imposing such regulations should not be included in the order at this time. It appears that this is a matter that the committee might give further study and consideration and, if a feasible regulation of this nature could be developed, action could then be initiated to include such regulatory authority in the order.

(f) The order should provide for the exemption from its provisions of such handling of prunes which it is not necessary to regulate in order to effectuate the declared purposes of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to the provisions of the program.

Prunes which are handled for consumption by charitable institutions, for distribution by relief agencies, or for commercial processing into products have little influence on the level of prices for fresh prunes sold in the domestic and export markets. Hence, prunes handled for such purposes should be exempted from compliance with the regulations issued under the order.

In addition, provisions should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of prunes, in such specified small quantities, or types of shipments, or shipments made for such specified purposes as it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the exemption of such handling as may be determined necessary to facilitate the conduct of research, and handling which is found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It would be impractical to set forth these exemptions in detail in the order, because to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of prunes in the production area. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments, or shipments made for specified purposes, should be exempted from regulation, inspection, and assessments and the period during which such exemptions should be in effect.

The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. Hence, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as are necessary to prevent prunes handled for any of the exempted purposes from entering into regulated channels of trade and thereby tend to defeat the objective of the program. For example, should it be found that a portion of the prunes moving to commercial processors was being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such prunes do not have to comply with grade, size, quality, and other requirements. These procedures might include such requirements as filing applications for authorization to move prunes in exempted channels and certification by the receiver that such prunes would be used only for the purpose indicated, if it is found that such requirements are necessary to the effective enforcement of the program regulations.

(g) Provision should be made in the order requiring all prunes handled, during any period when handling limitations are effective, to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the requirements of the applicable regulation. Inspection and certification of all prunes handled during periods of regulation are essential to the effective supervision of the regulations. Evidence of compliance with regulations issued under the program can be ascertained only through inspection and certification of all prunes handled during the effective period of such regulations. As the handler of prunes is the person responsible for compliance with such regulations, it is reasonable and necessary to require handlers to submit each lot of prunes handled for inspection and certification and to file a copy of the certificate of inspection with the committee. It was testified that handlers are familiar with the Federal and Federal-State Inspection Service and the certification of prunes in the production area, and the use of such inspection agency under this program is desired by the industry.

Responsibility for obtaining inspection and certification should fall on each person who handles prunes. In this way, not only will the handler who first ships or handles prunes be required to obtain inspection and certification thereof, but also no subsequent handler may handle prunes unless a properly issued inspection certificate, valid pursuant to the terms of the order and applicable regulations thereunder, applies to the shipment. Each handler must bear responsibility for determining that each of his shipments is so inspected and certified.

In instances where any lot of prunes previously inspected is regraded, resorted, repackaged, or in any other way subjected to further preparation for market, such prunes should be required to be inspected following such preparation and certified as meeting the requirements of the applicable regulations before such prunes are handled, since the identity of the lot is lost in such preparation and the validity of the prior inspection certificate and the information shown thereon destroyed.

(h) The committee should have the authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information as may be needed to perform such agency's functions under the order. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden. Moreover, since handlers are the only persons subject to regulation

under the program, they are the only persons who could be required to furnish such information. It was testified that based upon knowledge and experience gained through the operation of the potato and onion programs much of the information needed from handlers could be obtained from the inspection certificate. However, it was pointed out that it is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the committee should have the authority to request, with approval of the Secretary, reports and information as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

The Secretary should retain the right to approve, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports. Any reports and records submitted for committee use by handlers should remain under protective classification and be disclosed to none other than the Secretary and persons authorized by the Secretary.

Under certain circumstances, the release of information with respect to prune shipments may be helpful to the committee and the industry generally in planning for operations under the order during the marketing season. However, none of such reported information should be released other than on a composite basis, and no such release of information should disclose either the identity of handlers or their operations. This is necessary to prevent the disclosure of information which may affect detrimentally the trade or financial position, or the business operations of individual handlers.

Since it is possible that a question could arise with respect to compliance, handlers should be required to maintain for each fiscal period complete records of their receipts, handling, and dispositions of prunes. Such records should be retained for not less than two succeeding years.

(i) Except as provided in the order, no handler should be permitted to handle prunes, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle prunes except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(j) The provisions of §§ 1030.62 through 1030.71, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 1030.72 through 1030.74, as hereinafter set forth, are also included in other marketing agreements now in effect. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section number and heading, are as follows: § 1030.62 *Right of the Secretary;* § 1030.63 *Effective time;* § 1030.64 *Termination;* § 1030.65 *Proceedings after termination;* § 1030.66 *Effect of termination or amendment;* § 1030.67 *Duration of immunities;* § 1030.68 *Agents;* § 1030.69 *Derogation;* § 1030.70 *Personal liability;* and § 1030.71 *Separability.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § 1030.72 *Counterparts;* § 1030.73 *Additional parties;* and § 1030.74 *Order with marketing agreement.*

Rulings on proposed findings and conclusions. March 26, 1960, was set by the Presiding Officer at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. Briefs were filed within the prescribed time by Darwin Symms and George Wells Smith, in support of the program.

Every point covered in each brief was carefully and fully considered, in conjunction with the evidence in the record, in arriving at the findings and conclusions set forth herein. To the extent that any suggested findings and conclusions contained in such briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, is denied on the basis of the facts found and stated in connection with this decision.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of prunes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity, specified in a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of prunes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of prunes grown in the production area as defined in said marketing agreement and order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out:

DEFINITIONS

§ 1030.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1030.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (sections 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 1030.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 1030.4 Production area.

"Production area" means and includes Washington, Payette, Gem, Canyon, Ada, and Owyhee Counties in the State of Idaho and Malheur County in the State of Oregon.

§ 1030.5 Prunes.

"Prunes" means all varieties of plums, classified botanically as Prunus domestica, grown in the production area, except those of the President variety.

§ 1030.6 Varieties.

"Varieties" means and includes all classifications or subdivisions of prunes.

§ 1030.7 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period ending on May 31 of each year or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

§ 1030.8 Committee.

"Committee" means the Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee established pursuant to § 1030.20.

§ 1030.9 Grade.

"Grade" means any one of the officially established grades of prunes as defined and set forth in the United States Standards for Fresh Plums and Prunes (§§ 51.1520 to 51.1537 of this title) or amendments thereto, or modifications thereof, or variations based thereon.

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[1] The provisions identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order.

§ 1030.10 Size.

"Size" means the shortest dimension, measured through the center of the prune, at right angles to a line running from the stem to the blossom end, or such other specification as may be established by the committee with the approval of the Secretary.

§ 1030.11 Grower.

"Grower" is synonymous with producer and means any person who produces prunes for market and who has a proprietary interest therein.

§ 1030.12 Handler.

"Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting prunes owned by another person) who handles prunes.

§ 1030.13 Handle or ship.

"Handle" or "ship" means to sell, consign, deliver, or transport prunes within the production area or between the production area and any point outside thereof: *Provided,* That the term "handle" shall not include the transportation within the production area of prunes from the orchard where grown to a packing facility located within such area for preparation for market.

§ 1030.14 District.

"District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 1030.31(m):

(a) "District No. 1" shall include Washington and Payette Counties in the State of Idaho and Malheur County in the State of Oregon.

(b) "District No. 2" shall include Gem and Ada Counties in the State of Idaho.

(c) "District No. 3" shall include Canyon and Owyhee Counties in the State of Idaho.

§ 1030.15 Export.

"Export" means to ship prunes to any destination which is not within the 48 contiguous states, or the District of Columbia, of the United States.

§ 1030.16 Pack.

"Pack" means the specific arrangement, size, weight, count, or grade of a quantity of prunes in a particular type and size of container, or any combination thereof.

§ 1030.17 Container.

"Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of prunes.

ADMINISTRATIVE BODY

§ 1030.20 Establishment and membership.

There is hereby established an Idaho-Malheur County, Oregon, Fresh Prune Marketing Committee consisting of 10 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Six of the members and their respective alternates shall be growers or officers or employees of corporate growers. Four of the members and their respective alternates shall be handlers, or officers or employees of handlers. The 6 members of the committee who are growers or employees or officers of corporate growers are hereinafter referred to as "grower members" of the committee; and the 4 members of the committee who shall be handlers, or officers or employees of handlers, are hereinafter referred to as "handler members" of the committee. Each district shall be represented on the committee by 2 grower members and their respective alternates. Each district shall be represented on the committee by 1 handler member and his alternate. One handler member and his alternate shall be selected from the production area at large.

§ 1030.21 Term of office.

The term of office of each member and alternate member of the committee shall be for 2 years beginning June 1 and ending May 31: *Provided,* That the term of office of one-half of the initial grower members and alternates from each district and the handler member and his alternate from District 2 and the handler member and his alternate selected from the production area at large shall end May 31, 1961. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 1030.22 Nomination.

(a) *Initial members.* Nominations for each of the initial members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of a meeting of handlers, and group meetings of the growers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in, this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 1030.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than May 1 of each year, a meeting or meetings of growers in each district, and a meeting of handlers, for the purpose of designating nominees for successor members and alternate members of the committee. At each such meeting a chairman and a secretary shall be selected by the growers and handlers eligible to participate therein. The chairman shall announce at the meeting the results of the balloting for each member or alternate member position and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings, may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces prunes. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of prunes, such person may vote either as a grower or as a handler but not as both.

(3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected. If a person is both a grower and a handler of prunes, such person may vote either as a grower or as a handler but not as both.

§ 1030.23 Selection.

From the nominations made pursuant to § 1030.22, or from other qualified persons, the Secretary shall select the 6 grower members of the committee, the 4 handler members of the committee, and an alternate for each such member.

§ 1030.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 1030.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 1030.20.

§ 1030.25 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 1030.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 1030.22 and 1030.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 1030.20.

§ 1030.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other

duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a grower member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate the other grower alternate member from the same district to serve in such member's place and stead. In the event both a handler member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other handler alternate member who is not acting as a member to serve in such member's place and stead.

§ 1030.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1030.31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to prunes;

(i) To submit to the Secretary such available information as he may request;

(j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

(k) To give the Secretary the same notice of meetings of the committee as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation of any district on the committee: *Provided,* That any such changes shall reflect, insofar as practicable, shifts in prune production within the districts and the production area.

§ 1030.32 Procedure.

(a) Seven members of the committee, including alternates acting for members, shall constitute a quorum; and any action of the committee shall require the concurring vote of at least seven members.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided,* That if an assembled meeting is held, all votes shall be cast in person.

§ 1030.33 Expenses and compensation.

The members of the committee, and alternates when acting as members, may be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and may also receive compensation, as determined by the committee, which shall not exceed $10 per day or portion thereof spent in performing such duties: *Provided,* That at its discretion the committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses and compensation, as aforesaid.

§ 1030.34 Annual report.

The committee shall, prior to the last day of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal period; (b) an appraisal of the effect of such regulatory operations upon the prune industry; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ 1030.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 1030.41.

§ 1030.41 Assessments.

(a) Each person who first handles prunes shall, with respect to the prunes so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds will be incurred by the committee during each fiscal period. Each such person's share of such expenses shall be equal to the ratio between the total quantity of prunes handled by him as the first handler thereof during the applicable fiscal period and the total quantity of prunes so handled by all persons during the same fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all prunes handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 1030.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal period unless such person demands repayment thereof, in which event it shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve in an amount not to exceed approximately one fiscal year's operational expenses. Upon approval of the Secretary, funds in such reserve shall be available for use by the committee for all expenses authorized pursuant to § 1030.40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

RESEARCH

§ 1030.45 Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of prunes. The expense of such projects shall be paid from funds collected pursuant to § 1030.41.

REGULATIONS

§ 1030.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 1030.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of prunes within the production area;

(2) The expected general quality and size of prunes in the production area and in other areas;

(3) The expected demand conditions for prunes in different market outlets;

(4) The expected shipments of prunes produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of prunes; and

(8) The type of regulations expected to be recommended during the season.

(b) In the event it becomes advisable, because of changes in the supply and demand situation for prunes, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report, including each revised marketing policy report, and copies thereof shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 1030.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of prunes in the manner provided in § 1030.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for prunes during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 1030.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of prunes whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the Act. Such regulations may:

(1) Limit, during any period or periods, the shipments of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of prunes grown in the production area.

(2) Limit the shipment of prunes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level.

(3) Fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of prunes.

(4) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of prunes which are different from those applicable to the handling of the same variety to other destinations.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to growers and handlers.

§ 1030.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 1030.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of prunes in order to effectuate the declared policy of the Act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner, the Secretary may terminate any such modification or suspension. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the Act, he shall suspend or terminate such regulation. On the same basis and in like manner, the Secretary may terminate any such suspension.

§ 1030.54 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 1030.41, 1030.52, 1030.53, and 1030.55, and the regulations issued thereunder, handle prunes (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 1030.41, 1030.52, 1030.53, or 1030.55, the handling of prunes in such minimum quantities, or types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 1030.45) as the committee, with approval of the Secretary, may prescribe.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent prunes handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle prunes pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the prunes will not be used for any purpose not authorized by this section.

§ 1030.55 Inspection and certification.

Whenever the handling of any variety of prunes is regulated pursuant to § 1030.52 or § 1030.53, each handler who handles prunes shall, prior thereto, cause such prunes to be inspected by the Federal or Federal-State Inspection Service, and certified by it as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall be required for prunes which previously have been so inspected and certified only if such prunes have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such prunes.

REPORTS

§ 1030.60 Reports.

(a) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part. Such reports may include, but are not necessarily limited to, the following: (1) The quantities of each variety of prunes received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such prunes, and

(4) the destination of each shipment of such prunes.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers are authorized, subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the prunes received, and of prunes disposed of, by such handler as may be necessary to verify reports pursuant to this section.

MISCELLANEOUS PROVISIONS

§ 1030.61 Compliance.

Except as provided in this part, no person shall handle prunes the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle prunes except in conformity with the provisions and the regulations issued under this part.

§ 1030.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 1030.63 Effective time.

The provisions of this part and of any amendments thereto shall become effective at such time as the Secretary may declare above his signature, and shall continue in force until terminated in one of the ways specified in § 1030.64.

§ 1030.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of prunes for market in fresh form: *Provided,* That such majority has produced for market during such period more than 50 percent of the volume of prunes produced for fresh market in the production area; but such termination shall be effective only if announced on or before May 31 of the then current fiscal period.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 1030.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 1030.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part, or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 1030.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon the termination of this part, except with respect to acts done under and during the existence of this part.

§ 1030.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 1030.69 Derogation.

Nothing contained in the provisions of this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1030.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 1030.71 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part, or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 1030.72 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.***

§ 1030.73 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.***

§ 1030.74 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for the regulating of the handling of fresh prunes in the same manner as is provided for in this agreement.***

Dated: MAY 6, 1960.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 60-4222; Filed, May 10, 1960; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Filing of Petition for Establishment of Tolerances for Residues of Dodine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:

A petition has been filed by American Cyanamid Company, 30 Rockefeller Plaza, New York 20, New York, proposing the establishment of a tolerance for residues of dodine (*N*-dodecylguanidine acetate) at 5 parts per million in or on apples and at zero in milk and meat. This represents a refiling with respect to the request for a tolerance on apples, such request having been withdrawn from a petition previously filed by the American Cyanamid Company (24 F.R. 7639).

The analytical methods proposed in the petition for determining residues of dodine in or on apples and in milk and meat are modifications of the basic procedure which consists of extraction of residues with methanol-chloroform, complexing of the dodine with bromcresol purple indicator in water-methanol, extraction of the complex into chloroform, hydrolysis of the complex with aqueous alkali, extraction of the indicator salt into the aqueous phase, and colorimetric estimation of this indicator salt as an index of the amount of the dodine residue present. Modification of the foregoing procedure distinguishes dodine from other pesticides of similar characteristics. A paper chromatographic procedure is also described for making this distinction.

Dated: May 5, 1960.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 60-4227; Filed, May 10, 1960; 8:48 a.m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Filing of Petition for Establishment of Tolerances for Residues of 2,4-Dichloro-6-o-Chloroanilino-s-Triazine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), a petition has been filed by Chemagro Corporation, P.O. Box 4913, Kansas City, Missouri, proposing the establishment of a tolerance of 10 parts per million for residues of 2,4-dichloro-6-o-chloroanilino-*s*-triazine in or on each of the following raw agricultural commodities: Green onions, shallots, strawberries.

The analytical method proposed in the petition for determining residues of 2,4-dichloro-6-o-chloroanilino-*s*-triazine is that described in the FEDERAL REGISTER of July 12, 1957 (22 F.R. 4918) and in the Journal of Agricultural and Food Chemistry, Volume 7, page 558 (1959).

Dated: May 5, 1960.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 60-4231; Filed, May 10, 1960; 8:49 a.m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Ferrous Sulfate; Notice of Proposal To Declare Such Substance as Safe

Notice is given that the Commissioner of Food and Drugs, on his own initiative, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(e), 68 Stat. 514; 21 U.S.C. 348(e)) and in accordance with the authority delegated to him by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500) proposes to amend the regulations for setting tolerances and granting exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR, 1958 Supp., 120.2) as follows:

It is proposed to amend § 120.2 *Pesticide chemicals considered safe,* by adding "ferrous sulfate" to the list of pesticide chemicals therein. As amended, paragraph (a) will read as follows:

(a) As a general rule, pesticide chemicals other than ferrous sulfate, sulfur, lime, lime-sulfur, potassium polysulfide, sodium carbonate, and sodium polysulfide are not, for the purposes of section 408(a) of the act, generally recognized as safe for use.

Any interested person may, within 30 days from the date of the publication of this notice in the FEDERAL REGISTER, file, in quintuplicate, with the Hearing Clerk, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington 25, D.C., written views or comments on this proposal.

Dated: May 4, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-4232; Filed, May 10, 1960; 8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by The Glidden Company, 900 Union Commerce Building, Cleveland 14, Ohio, proposing an amendment of the regulation under § 121.1004 *Glyceryl lactostearate and mono- and diglycerides as emulsifier in or with shortening,* to provide for the following additional sources of fats in the manufacture and use of glyceryl lactostearate and mono- and diglycerides as an emulsifier in or with shortening:

1. Hydrogenated prime steam or dry rendered lard.
2. Hydrogenated edible tallow.
3. Hydrogenated cottonseed oil.

Dated: May 4, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 60-4228; Filed, May 10, 1960; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Filing of Petition

In re: Notice of filing of petition for issuance of regulation establishing tolerance for polyvinylpyrrolidone in beer.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), the following notice is issued:

A petition has been filed by General Aniline and Film Corporation, 435 Hudson Street, New York 14, New York, proposing the issuance of a regulation to establish a tolerance of 10 parts per million (0.001 percent) of polyvinylpyrrolidone in beer.

Dated: May 4, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 60-4229; Filed, May 10, 1960; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

In re: Notice of filing of petition for issuance of regulation establishing tolerance for ethoxyquin as an antioxidant in animal feeds.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), the following notice is issued:

A petition has been filed by The Monsanto Chemical Company, 800 North Lindbergh Boulevard, St. Louis 66, Missouri, proposing the issuance of a regulation to establish a tolerance of 150 parts per million (0.015 percent) of ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) as an antioxidant for addition to animal feeds, when used

to protect the nutrient content of these feeds from oxidative deterioration.

Dated: May 4, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 60-4230; Filed, May 10, 1960; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 60]

[Reg. Docket No. 380, Draft Release 60-10]

NEW YORK INTERNATIONAL AIRPORT

Traffic Pattern Area Rules

Notice is hereby given that the Bureau of Air Traffic Management will propose to the Administrator the adoption of special airport traffic rules for the New York International Airport.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received prior to June 27, 1960, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed date for the return of comments has expired. Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply.

Section 307(c) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c)), authorizes and directs the Administrator of the Federal Aviation Agency to "prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision." This provision of the Act requires the Administrator in the development of air traffic rules for the safety of interstate, overseas, and foreign air commerce to also provide in such rules proper protection to persons and property on the ground.

The objective of the rules proposed herein is the improvement of the safety of flight operations in the vicinity of the New York International Airport and the abatement of the aircraft noise problem as it affects communities adjacent to that airport. The provisions of this proposal which deal with aircraft noise are initial products of an Agency-wide program that seeks the reduction of the noise problem to the extent feasible by regulation under existing law. While several developments are under way in a number of different approaches to the problem, the airport traffic rule approach proposed herein represents a practical method which can reduce the noise factor in an early and effective manner. Adoption of this proposal will provide the first Federally enforceable rule in the New York area designed in major part toward noise abatement. Future changes in this rule may be made as experience dictates.

In the establishment of traffic patterns which would be most suitable for the New York International Airport, the Federal Aviation Agency has considered the comprehensive studies and developments which have been made over the past several years by both the National Air Transport Coordinating Committee and the Port of New York Authority for the alleviation of local aircraft noise problems. The noise abatement procedures and techniques which have been developed by these two organizations have contributed extensively to the regulation being proposed.

This proposal will establish in regulatory form, procedures and techniques applicable to aircraft during landings, take-offs and operations within the airspace surrounding the New York International Airport and are designed to reduce noise to the extent consistent with safety. The principal method of noise reduction which forms the basis of these regulations is a combined system of preferential runways to be used for both landings and take-offs to minimize flight over residential areas and the designation of specific traffic patterns with higher altitudes of flight.

Flight safety considerations and the requirements of domestic and foreign air commerce have been fundamental to the development of the preferential runway system proposed herein. While this system can be followed in a majority of all operations, it should be recognized that there will be occasions when the system cannot be followed.

The establishment of a preferential runway system involves consideration of a number of complex and variable operational factors necessary for the safety of a particular take-off or landing. These factors include the operational characteristics of the aircraft involved, the weather conditions, ground temperature, surface wind direction and velocity, and the condition of the runway. Additionally, the flight patterns to be followed to and from such runways must be compatible with the flow of air traffic at other airports so as to minimize the possibility of collision.

Recognizing these operational factors, the preferential runway system established in this proposal specifies certain selected runways which are to be used by all large propeller-driven and turbojet aircraft. Although it is operationally advantageous to operate an aircraft directly into the wind during landing and take-off, the directions of take-off specified herein do not provide for such operations in many instances. While the preferential runway system will create additional problems for pilots and for the over-all efficient movement of air traffic at this airport, it is believed that such operational problems as are created will be compensated for by the increased benefits obtained in the public interest to be derived from the reduction of aircraft noise in the nearby communities.

The proposed preferential runway system for turbojet aircraft specifies four runways which may be used for take-off. Depending on the direction and velocity of surface wind, the primary runway would be 25 Left which permits take-off over Jamaica Bay. Runway 13 Right would be used as the next priority and runway 31 Left and 7 Right follow in that order. Runway 31 Left has been added to the preferential runway system for more wind directions which have not been utilized in the past. The added use of this runway is made possible by the extension of the runway to a total length of 14,600 feet. Aircraft taking off on this runway will be able to attain higher altitudes before passing the airport boundary thereby reducing the noise level on the surface below. The application of visual flight rule conditions climb procedures to aircraft departing from this runway on instrument flight plans in good weather conditions will also facilitate the use of an earlier left turn to avoid residential areas. Requiring the use of this runway as an additional primary preferential runway is expected to contribute significantly to the over-all reduction of the noise problem.

The preferential runway system also designates a certain runway to be used when the surface wind is calm. When the surface wind is less than 5 knots all turbojet aircraft would be required to take off on runway 25 Left. When the surface wind is 5 knots or more but does not exceed 15 knots, the preferential runway system established for all turbojet and large aircraft would be used for both take-offs and landings. Small aircraft and helicopters are not required to use the preferential runway system.

The use of the preferential runway system is not mandatory for any aircraft when the surface wind velocity exceeds 15 knots because of the hazardous nature of strong crosswind components. However, when the surface wind velocity exceeds 15 knots, efforts will be made to continue the use of the preferential runway system to the extent that air safety will permit under the particular crosswind component involved.

The rules proposed herein would require that all fixed-wing aircraft climb to 1,500 feet as rapidly as practicable when the cloud height permits. However, an exception is provided in the rule for certain aircraft which are capable of producing less noise in a slower climb rate with reduced power settings and other flight techniques. Since these particular aircraft produce more noise in a rapid climb than would be created under a less rapid climb, special exceptions will be authorized by the Agency in order to exploit this advantage. Another provision of the proposed rules which deal with the take-off phase of flight is the restriction against the use of runways 4 Right, 4 Left, 13 Left and 31 Right

by turbojet aircraft. Under these rules, runways 4 Right, 4 Left, 13 Left, and 31 Right would be used for take-off only by propeller driven aircraft.

Although it is intended that the preferential runway system shall be used whenever the surface wind does not exceed 15 knots, it is not intended that this requirement will, in any way, abrogate the authority and responsibility of the pilot in command to assure safe operation of the aircraft. Therefore, if the pilot in command determines that use of the preferential runway is unsafe for a particular flight, another runway of his choice may be used when traffic permits such use. Whenever this prerogative is exercised, a written report of the reasons for such operation shall be forwarded within 48 hours to the Federal Aviation Agency. These reports will be reviewed to evaluate the reasons for the use of a different runway. Continuing study will be made of these reports by the Federal Aviation Agency to determine whether further changes in the rules are required to accomplish its objective.

In addition to the foregoing rules pertaining to preferential runways, all large aircraft equipped with a functioning instrument landing system will be required to maintain a minimum angle of descent when on final approach for a landing on those runways equipped with instrument landing systems. Compliance with this angle of descent will insure that such aircraft will remain at or above prescribed altitudes while on final approach over areas adjacent to the airport during all weather conditions.

The proposed rules would also establish an airport traffic pattern area that would include the airspace surrounding the New York International Airport within which these special operating rules would apply. This area would include all airspace below 2,000 feet within a radius of 5 miles of the geographical center of the airport.

All en route aircraft not intending to land at an airport within this area would be prohibited from operating in this airspace unless specifically authorized by air traffic control. Similarly, all training flight activity other than required airport qualification flights would be restricted from operating in this airspace.

All aircraft, military as well as civil, would be required to operate in the New York International Airport traffic pattern area in conformance with the detailed operating procedures set forth in this regulation. These operating procedures prescribe a minimum altitude to be observed while entering, operating within, and departing the airport traffic pattern area. They also prescribe safe directions of flight over areas of least congestion which shall be followed by all aircraft operating within the traffic pattern area.

Further, these rules would establish a requirement for two-way communications for all aircraft landing at and taking off from the New York International Airport, and for any aircraft that may have need to operate en route through the traffic pattern area. This requirement is considered essential to the safe movement of the high volume of aircraft that typically operate within this airspace.

Although a Special Civil Air Regulation for a particular airport is proposed herein, the Agency is considering an air traffic regulation of general applicability which will standardize all controlled airport traffic pattern rules to the extent practicable and will also provide for the establishment of detailed local airport rules on a local basis. To the extent appropriate, the provisions of such a regulation may be substituted for provisions in this proposal. This Special Civil Air Regulation is being proposed at this time, however, to achieve improved safety and reduction of the noise problem as soon as possible.

In consideration of the foregoing, it is proposed to adopt a Special Civil Air Regulation governing the flight of aircraft on and in the vicinity of the New York International Airport, to read as follows:

NEW YORK INTERNATIONAL AIRPORT TRAFFIC PATTERN AREA RULES

1. *Scope and applicability.* All aircraft operating within the airspace of the New York International Airport Traffic Pattern Area shall be operated in accordance with the following rules unless otherwise authorized by the New York International Airport Traffic Control Tower. As used in these rules, the New York International Airport Traffic Pattern Area shall include the airspace within a 5 mile horizontal radius from the geographical center of that airport and extending upward from the surface to, but not including, 2,000 feet above the surface. Additionally, large aircraft as used in this regulation shall mean those aircraft of 12,500 pounds or more maximum certificated takeoff weight. Small aircraft means all others.

2. *General rules*—(a) *Avoidance of traffic pattern area.* En route aircraft and aircraft engaged in flight training, other than required airport qualification flights, shall not be flown within the New York International Airport Traffic Pattern Area.

(b) *Communications.* Two-way radio communication shall be established with the New York International Airport Traffic Control Tower prior to entering the traffic pattern area for a landing at that airport and prior to take-off from that airport unless prior authorization from the airport traffic control tower has been obtained.

3. *Traffic pattern area entry.* Unless the VFR distance-from-cloud criteria requires otherwise, all fixed-wing aircraft landing at the New York International Airport shall enter the traffic pattern area at the following altitudes:

(a) *Large aircraft.* Large aircraft shall enter the traffic pattern area at an altitude of at least 1,500 feet above the surface. After entry, an altitude of a least 1,500 feet shall be maintained until maneuvering for a safe landing requires further descent.

(b) *Small aircraft.* Small aircraft shall enter the traffic pattern area at an altitude below 1,200 feet but not less than 1,000 feet above the surface. After entry, an altitude between 800 and 1,000 feet shall be maintained until maneuvering for a safe landing requires further descent.

4. *Final approach.* When approaching to land at the New York International Airport on a runway served by a functioning instrument landing system (ILS), large fixed-wing aircraft equipped with functioning ILS instrumentation shall remain at or above the glide slope altitude between the outer marker and the middle marker.

5. *Departures*—(a) *Rate of climb.* Unless the VFR distance-from-cloud criteria requires otherwise, all fixed-wing aircraft taking off from the New York International Airport shall climb to at least 1,500 feet as rapidly as practicable; provided that, the Administrator may specify a different rate of climb for a particular type of aircraft when he finds that greater advantages in noise reduction can thereby be achieved.

(b) *Take-off runway restriction.* Pilots of turbojet aircraft shall not use runways 4 Left, 4 Right, 13 Left, or 31 Right for take-off.

6. *New York International Airport Preferential Runway System*—(a) *Large fixed-wing propeller-driven aircraft.*

When applicable aircraft performance limitations permit, the ceiling and visibility are equal to, or greater than 1,000 feet and 3 miles respectively, and the runway to be used is dry, pilots of large, fixed-wing propeller-driven aircraft shall use the following preferential runway system unless the surface wind at the time of the take-off or landing exceeds a velocity of 15 knots.

Wind direction	Take-off runway	Landing runway
N	31L	4R/L
NNE	31L	4R/L
NE	7R	4R/L
ENE	13L/R	13R/L, 4R/L
E	13L/R	13R/L, 4R/L
ESE	13L/R	13R/L, 4R/L
SE	13L/R	13R/L, 4R/L
SSE	13L/R–22R/L	13R/L, 22L/R
S	22R/L–25L	22L/R
SSW	22R/L–25L	22L/R
SW	22R/L–25L	22L/R
WSW	22R/L–25L	22L/R
W	22R/L–25L	22L/R
WNW	22R/L–25L	22L/R
NW	31L/R–25L	31R/L
NNW	31L/R	4R/L
Calm (0–5)	22R/L–25L	[1] 22R/L, 4L/R

[1] Traffic permitting and with pilots concurrence, runway 4 may be used for landing while runways 22 and 25L are being used for take-off.

(b) *All turbojet aircraft.* When the applicable aircraft performance limitations permit, the ceiling and visibility are equal to or greater than 1,000 feet and 3 miles respectively, and the runway to be used is dry, pilots of turbojet aircraft shall use the following preferential runway system unless the surface wind at the time of take-off or landing exceeds a velocity of 15 knots:

Wind direction	Take-off runway	Landing runway
N	31L	4R/L
NNE	31L	4R/L
NE	7R–13R	4R/L
ENE	13R	13R/L, 4R/L
E	13R	13R/L, 4R/L
ESE	13R	13R/L, 4R/L
SE	13R	13R/L, 4R/L
SSE	13R	13R/L, 22L/R
S	25L	22L/R
SSW	25L	22L/R
SW	25L	22L/R
WSW	25L	22L/R
W	25L	22L/R
WNW	25L	22L/R
NW	31L–25L	31R/L
NNW	31L	4R/L
Calm (0–5)	25L	[1] 22R/L, 4L/R

[1] Traffic permitting and with pilots concurrence, runway 4 may be used for landing while runways 22 and 25L are being used for take-off.

(c) *Alternate runway.* In the event the preferential runway is closed for take-off or landing, the pilot of an aircraft subject to the requirements of this section shall use an alternate runway for take-off or landing as assigned by the airport traffic control tower.

(d) *Use of other runways.* If the pilot of an aircraft subject to the requirements of this section determines that use of the preferential runway or alternate runway assigned by air traffic control is unsafe for the operation of his aircraft he may use another runway of his choice, subject to other air traffic.

If the pilot makes such a choice, a written report of the reasons therefor shall be forwarded within 48 hours to the Chief, Flight Standards Division, Federal Aviation Agency, Region One, Jamaica, New York.

NOTE: In determining the safety factor for total required runway length for take-off, the pilot's calculation may include an additional 1% of runway length for each 3 knots of cross-wind component over and above the minimum required take-off runway length.

7. *Traffic pattern rules for Floyd Bennett Naval Air Station.* All aircraft operating in that portion of the Floyd Bennett Naval Air Station traffic pattern which may extend into the New York International Airport Traffic Pattern Area shall be flown so that traffic landing on runways 19 or 24 will remain at or below 800 feet until clear of the New York International Airport Traffic Pattern Area. Departures on runways 6 or 1 shall execute the first turn after take-off so as to remain clear of the New York International Airport Traffic Pattern Area.

This regulation is proposed under the authority of sections 313(a) and 307 of the Federal Aviation Act of 1958 (72 Stat. 752, 749, 49 U.S.C. 1354, 1348).

Issued in Washington, D.C., on May 5, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4208; Filed, May 10, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-46]

CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.6195 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 195 extends, in part, from the Tomhead, Calif., Intersection (intersection of the Williams, Calif., VOR 335° and the Red Bluff, Calif., VOR 291° True radials) to the Yager, Calif., Intersection (intersection of the Fortuna, Calif., VOR 110° True radial and the Arcta, Calif., ILS localizer 330° True course). The control areas associated with this segment of Victor 195 are presently designated to extend upward from 700 feet above the surface to but not including 24,000 feet MSL.

To implement, in part, Civil Air Regulation, Part 60 Air Traffic Rules, Amendment 60-14 (24 F.R. 6, 11078), the Federal Aviation Agency is considering redesignating the control areas associated with this segment of Victor 195 to extend upward from 8,500 feet MSL to but not including 24,000 feet MSL. This would make additional airspace available underneath this airway for conducting flight outside of control area, and would not adversely affect the management of air traffic along this airway. This modification of control areas would not affect the designation of the associated airway. Accordingly, no amendment relating to such airway would be necessary.

If this action is taken, the control areas associated with the segment of VOR Federal airway No. 195 between the Tomhead, Calif., Intersection and the Yager, Calif., Intersection would be designated to extend upward from 8,500 feet MSL (approximately 2,600 feet above highest terrain), to but not including 24,000 feet MSL.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 4, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4209; Filed, May 10, 1960; 8:46 a.m.]

[14 CFR Part 608]

[Airspace Docket No. 59-FW-104]

RESTRICTED AREAS

Designation of Restricted Area/Military Climb Corridor

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.48 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a Restricted Area/Military Climb Corridor at Charleston, S.C., Air Force Base/Municipal Airport. The Military Climb Corridor designated as a Restricted Area would be used by the high speed, high rate-of-climb Century series air defense aircraft departing from Charleston AFB/Municipal Airport on active air defense missions. The restricted area would provide protection for high speed air defense aircraft and other users of the airspace during the climb phase of the air defense aircraft mission. The proposed Restricted Area/Military Climb Corridor would extend along the 147° True radial of the Charleston, S.C., VOR from a point 10 statute miles south southeast to a point 35 statute miles south southeast of the Charleston VOR, 2.5 statute miles wide at the point of beginning to 5.5 statute miles at the outer extremity, excluding the portion outside the United States. The lower altitude limits would extend in graduated steps from 2,000 feet MSL to 19,000 fee MSL. The upper altitude limits would extend from 15,000 feet MSL to 27,000 feet MSL. Time of use would be continuous. The controlling agency would be Charleston Approach Control. The controlling agency would authorize aircraft to operate within the climb corridor when not in use by active air defense aircraft.

If this action is taken, the Charleston, S.C., Restricted Area/Military Climb Corridor R-594 (Savannah, Ga., chart) would be designated as follows:

Description. That area centered on the 147° True radial of the Charleston, S.C., VOR extending from a point 10 statute miles south southeast of the VOR to a point 35 statute miles south southeast of the VOR having a width of 2.5 miles at the beginning and 5.5 miles at the outer extremity, excluding the portion outside of the United States.

Designated altitudes:

2,000 feet MSL to 15,000 feet MSL from 10 to 11 statute miles south southeast of the VOR.

2,000 feet MSL to 24,000 feet MSL from 11 to 12 statute miles south southeast of the VOR.

2,000 feet MSL to 27,000 feet MSL from 12 to 13 statute miles south southeast of the VOR.

2,000 feet MSL to 27,000 feet MSL from 13 to 15 statute miles south southeast of the VOR.

6,000 feet MSL to 27,000 feet MSL from 15 to 20 statute miles south southeast of the VOR.

10,000 feet MSL to 27,000 feet MSL from 20 to 25 statute miles south southeast of the VOR.

15,000 feet MSL to 27,000 feet MSL from 25 to 30 statute miles south southeast of the VOR.

19,000 feet MSL to 27,000 feet MSL from 30 to 35 statute miles south southeast of the VOR.

Time of designation. Continuous.

Controlling agency. Charleston, S.C., Approach Control.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Manage-

ment Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 4, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4210; Filed, May 10, 1960; 8:47 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 303]

TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Fiber Content of Special Types of Products; Exclusions From the Act

Notice is hereby given all interested parties that the Federal Trade Commission will on the 6th day of June 1960, at its office in the City of Washington, District of Columbia, give consideration to amendments to §§ 303.10 and 303.45 (Rules 10 and 45) of the rules and regulations under the Textile Fiber Products Identification Act.

Interested parties may participate by submitting in writing to the Commission, on or before such date, their views, arguments or other data. Written rebuttal may be submitted until June 13, 1960.

Such action is taken pursuant to the authority given to the Federal Trade Commission under section 7(c) of the Textile Fiber Products Identification Act (72 Stat. 1717; 15 U.S.C. 70) "to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement" and pursuant to the terms of section 12(a)(2) of such Act which provides that "The Commission may exclude from the provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer."

The matters to be considered are:

1. An amendment of § 303.10 (Rule 10) which would hereafter read:

§ 303.10 Fiber content of special types of products.

(a)(1) Where a textile product is made wholly of elastic yarn or material, with minor parts of non-elastic material for structural purposes, it shall be identified as to the percentage of the elastomer, together with the percentage of all textile coverings of the elastomer and all other yarns or materials used therein. (2) Where a textile fiber product is made in part of elastic material and in part of other fabric, the fiber content of such fabric shall be set forth sectionally by percentages as in the case of other fabrics. In such cases the elastic material may be disclosed by describing the material as elastic followed by a listing in order of predominance by weight of the fibers used in such elastic, including the elastomer, where such fibers are present by more than five percentum with the designation "other fiber" or "other fibers" appearing last when fibers required to be so designated are present. An example of labeling under this paragraph is:

Front and back rigid sections: 50% Acetate, 50% Cotton.
Elastic: Rayon, cotton, nylon, rubber.

(b) Where drapery or upholstery fabrics are manufactured on hand-operated looms for a particular customer after the sale of such fabric has been consummated, and the amount of the order does not exceed 100 yards of fabric, the required fiber content disclosure may be made by listing the fibers present in order of predominance by weight with any fiber or fibers required to be designated as "other fiber" or "other fibers" appearing last, as for example:

Rayon.
Wool.
Acetate.
Metallic.
Other fibers.

2. An amendment of subdivision (xv) of paragraph (a)(1) of § 303.45 (Rule 45) which would hereafter read:

(xv) flags more than 24 square inches in size.

3. An amendment of paragraph (a) of § 303.45 by adding another subparagraph thereto. Such paragraph would follow subparagraph 7 of paragraph (a) of § 303.45 (Rule 45) and would read:

(8) All textile fiber products in a form ready for the ultimate consumer procured by the military services of the United States which are bought according to specifications, but shall not include those textile fiber products sold and distributed through post exchanges, sales commissaries, or ship stores; provided, however, that if the military services sell textile fiber products for nonmilitary purposes the information with respect to the fiber content of such products shall be furnished to the purchaser thereof who shall label such products in conformity with the Act and regulations before such products are distributed for civilian use.

By direction of the Commission.

Issued: May 10, 1960.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-4241; Filed, May 10, 1960; 8:50 a.m.]

Notices

ATOMIC ENERGY COMMISSION

[Docket No. 50-144]

CAROLINAS VIRGINIA NUCLEAR POWER ASSOCIATES, INC.

Notice of Issuance of Construction Permit

Please take notice that the Atomic Energy Commission by an order of the Presiding Officer dated April 12, 1960, has issued Construction Permit No. CPPR-7, effective May 4, 1960, to Carolinas Virginia Nuclear Power Associates, Inc. A public hearing on the proposed Construction Permit was held on February 23, 1960. The Presiding Officer delivered his intermediate decision and order authorizing issuance of the provisional construction permit substantially as set forth in the Notice of Hearing published in the FEDERAL REGISTER on January 21, 1960, 25 F.R. 522.

Dated at Germantown, Md., this 4th day of May 1960.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[F.R. Doc. 60-4197; Filed, May 10, 1960; 8:45 a.m.]

[Docket No. 50-165]

INTERNATIONAL GENERAL ELECTRIC CO.

Notice of Filing of Application for Utilization Facility Export License

Please take notice that International General Electric Company, 150 East 42d Street, New York 17, New York, has submitted an application dated March 29, 1960, for a license authorizing export of a 150 megawatt (electrical) boiling water power reactor to Societa Elettronucleare Nazionale (SENN), Rome, Italy.

Pursuant to section 104 of the Atomic Energy Act of 1954, and Title 10, CFR Ch. 1, Part 50, "Licensing of Production and Utilization Facilities" and upon finding that (a) the reactor proposed to be exported is a utilization facility as defined in said Act and regulations, and (b) the issuance of a license for the export thereof is within the scope of and is consistent with the terms of an Agreement for Cooperation with the Government of the Italian Republic, the Commission may issue a facility export license authorizing the export of the reactor to Italy.

In its review of applications solely to authorize the export of production or utilization facilities the Commission does not evaluate the health and safety characteristics of the subject reactor.

In accordance with the Commission's rules of practice (10 CFR Part 2), the Commission will direct the holding of a formal hearing on the matter of the issuance of the license upon receipt of a request therefor within thirty days after the filing of this notice with the Office of the Federal Register. Such request should be addressed to the Secretary, AEC, Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. For further details see the application for license submitted by International General Electric Company on file at the AEC's Public Document Room.

Dated at Germantown, Md., this 3d day of May 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-4198; Filed, May 10, 1960; 8:45 a.m.]

[Docket No. 50-38]

MARTIN CO.

Notice of Issuance of Utilization Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 6, set forth below, to License No. CX-7. The amendment authorizes The Martin Company, as requested in its application for license amendment dated March 8, 1960, to use a pulsed neutron source in connection with experiments performed in the Company's Critical Experiment Facility located near Middle River, Maryland. Also, Amendment No. 5 to License No. CX-7 incorrectly stated the license expiration date as July 21, 1961, and Amendment No. 6 states the correct expiration date of License No. CX-7 which is July 1, 1961. The Commission has found that operation of the facility in accordance with the terms and conditions of the license, as amended, will not present any undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the proposed experiments does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the facility.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after issuance of the license amendment. Petitions for leave to intervene shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street, Washington, D.C. For further details, see (1) the application for license amendment dated March 8, 1960, submitted by The Martin Company, and (2) a hazards analysis of the proposed operation prepared by the Hazards Evaluation Branch of the Division of Licensing and Regulation, both on file at the AEC's Public Document Room. A copy of item (2) above may be obtained at the AEC's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 3d day of May 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[License No. CX-7, Amendment No. 6]

AMENDMENT TO UTILIZATION FACILITY LICENSE

License No. CX-7, as amended, issued to The Martin Company, is hereby amended in the following respects:

1. In addition to the activities previously authorized by the Commission in License No. CX-7, as amended, The Martin Company is authorized to use a pulsed neutron source in connection with experiments performed at the Company's Critical Experiment Facility located near Middle River, Maryland, as described in the Company's application for license amendment dated March 8, 1960. The conduct of experiments using the pulsed neutron source shall be in accordance with the procedures and subject to the limitations contained in License No. CX-7, as amended, and in the application for license amendment dated March 8, 1960.

2. Paragraph 5, as amended, is hereby amended to read as follows:

5. This license is effective as of the date of issuance and shall expire at midnight July 1, 1961, unless sooner terminated.

This amendment is effective as of the date of issuance.

Date of issuance: May 3, 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-4199; Filed, May 10, 1960; 8:45 a.m.]

[Docket No. 50-156]

REGENTS OF UNIVERSITY OF WISCONSIN

Notice of Proposed Issuance of Construction Permit

Please take notice that the Atomic Energy Commission proposes to issue a construction permit, substantially as set forth below, authorizing The Regents of the University of Wisconsin to construct a 10 kilowatt pool-type nuclear

reactor on the University's campus in Madison, Wisconsin, unless within fifteen days after the filing of this notice with the Office of the Federal Register a request for a formal hearing is filed with the Commission as provided by the Commission's rules of practice (10 CFR Part 2). Such request should be addressed to the Secretary at the AEC's office in Germantown, Maryland, or at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. For further details see (1) the application submitted by The Regents of the University of Wisconsin and (2) a hazards analysis prepared by the Hazards Evaluation Branch, Division of Licensing and Regulation, both on file at the AEC's Public Document Room. A copy of item (2) above may be obtained at the AEC's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 4th day of May 1960.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

PROPOSED CONSTRUCTION PERMIT

1. By application dated January 3, 1960 (hereinafter referred to as "the application") The Regents of the University of Wisconsin requested a Class 104 license, defined in § 50.21 of Part 50, "Licensing of Production and Utilization Facilities", Title 10, Chapter 1 CFR, authorizing construction and operation on the University's campus in Madison, Wisconsin, of a 10 kilowatt pool-type nuclear reactor (hereinafter referred to as "the reactor").

2. The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities";

B. The reactor will be used in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act");

C. The Regents of the University of Wisconsin are financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter 1, CFR, to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time;

D. The Regents of the University of Wisconsin and its contractor, General Electric Company, are technically qualified to design and construct the reactor;

E. The Regents of the University of Wisconsin have submitted sufficient information to provide reasonable assurance that a reactor of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public, and that omitted information necessary to complete the application will be supplied; and

F. The issuance of a construction permit to The Regents of the University of Wisconsin will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to The Regents of the University of Wisconsin to construct the reactor in accordance with the application. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. The earliest completion date for the reactor is July 1, 1960. The latest completion date for the reactor is May 31, 1961. The term "completion date", as used herein, means the date on which construction of the reactor is completed except for the introduction of the fuel material; and

B. The reactor shall be constructed and located on the University of Wisconsin's campus in Madison, Wisconsin, as described in the application.

4. This permit is provisional to the extent that a license authorizing operation of the reactor will not be issued by the Commission unless The Regents of the University of Wisconsin have submitted to the Commission, by amendment of the application, additional data to complete the hazards analysis of operating the proposed reactor and the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor in accordance with the specified procedures.

5. Upon completion (as defined in paragraph 3.A. above) of the construction of the reactor in accordance with the terms and conditions of this permit, upon the filing of the additional information needed to bring the original application up-to-date, and upon finding that the reactor authorized has been constructed and will operate in conformity with the application, as amended, and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to The Regents of the University of Wisconsin pursuant to section 104c of the Act, which license shall expire forty years after the date of this construction permit.

6. Pursuant to § 50.60 of the regulations in Title 10, Chapter 1, CFR, Part 50, the Commission has allocated to The Regents of the University of Wisconsin for use in connection with the operation of the reactor, seven kilograms of uranium-235 contained in fully enriched uranium and 16 grams of plutonium contained in encapsulated plutonium-beryllium sources.

Date of issuance:

For the Atomic Energy Commission.

[F.R. Doc. 60–4200; Filed, May 10, 1960; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 11212]

DELTA AIR LINES, INC., AND EASTERN AIR LINES, INC., ENFORCEMENT PROCEEDING

Notice of Hearing

In the matter of the complaint of Delta Air Lines, Inc. v. Eastern Air Lines, Inc. Enforcement Proceeding.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on May 23, 1960, at 10:00 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Walter W. Bryan.

Dated at Washington, D.C., May 6, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60–4242; Filed, May 10, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–20433]

TEXACO INC.

Order Permitting Superseding Supplement To Be Substituted for Suspended Supplement; Providing for Hearing and Suspending Proposed Change in Rate Contained in Superseding Supplement

MAY 4, 1960.

On November 30, 1959, Texaco Inc. (Texaco) tendered for filing a proposed increased rate and charge for its jurisdictional sales of natural gas from the Ragley Field, Beauregard Parish, Louisiana, to Trunkline Gas Company (Trunkline), designated as Supplement No. 1 to Texaco's FPC Gas Rate Schedule No. 190. Said Supplement No. 1, which proposed to increase the level of rate from 18.1 cents to 18.3 cents per Mcf at 15.025, was suspended until June 1, 1960, by order issued herein on December 22, 1959.

On April 4, 1960, Texaco tendered an undated Notice of Change, designated Supplement No. 2 to Texaco's FPC Gas Rate Schedule No. 190, wherein it proposes a favored-nation rate increase of 5.4 cents resulting in an increase in rate from 18.1 cents to 23.5 cents per Mcf for its jurisdictional sales of natural gas to Trunkline. In its filing, Texaco requests that Supplement No. 2 be substituted for Supplement No. 1 and that we waive our 30-day notice requirement and thereby permit the superseding supplement to be effective as of the date of filing since, as Texaco states, its contract favored-nation clause was activated during March 1960.

In support of the favored-nation rate increase, Texaco cites the contract provisions and the purported triggering initial 23.5 cents per Mcf rates to Trunkline, which were certificated in Docket Nos. G–15394, et al.; states that all provisions of the contract were arrived at by arm's-length bargaining and were integral parts of the consideration underlying the contract; and comments, in effect, that its rate increase will not provide sufficient revenues as evidenced by submitted copies of an exhibit presented in its rate suspension proceeding in Docket Nos. G–8969, et al., and by cited U.S. Bureau of Labor Statistics reports.

In this regard, it should be noted that, as the proceeding in Docket Nos. G–8969, et al., is now in the briefing stage pending the initial decision of the presiding examiner, consideration of such

exhibit at this time is premature. However, as Supplement No. 2 supersedes Supplement No. 1, the aforementioned Supplement No. 1 is thereby rendered moot and Supplement No. 2 should be permitted to be substituted therefor as hereinafter provided.

The increased rate and charge so proposed in Supplement No. 2 has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for permitting the aforesaid superseding Supplement No. 2 to be substituted for Supplement No. 1, thereby rendering said Supplement No. 1 moot as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of Supplement No. 2 to Texaco's FPC Gas Rate Schedule No. 190, and that the aforesaid Supplement No. 2 be suspended and the use thereof deferred as hereinafter ordered.

(3) Good cause has not been shown for granting Texaco's request for waiver of the statutory notice requirements.

The Commission orders:

(A) Permission is hereby granted to allow Supplement No. 2 to Texaco's FPC Gas Rate Schedule No. 190 to be substituted for the aforesaid Supplement No. 1 in this proceeding.

(B) The aforementioned Supplement No. 1 is hereby rendered moot and the proposed rate contained therein may not be placed in effect in the manner prescribed by the Natural Gas Act as set forth in our order issued herein on December 22, 1959.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing will be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Texaco's FPC Gas Rate Schedule No. 190.

(D) Pending hearing and decision thereon, said Supplement No. 2 is suspended and the use thereof deferred until October 5, 1960, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(E) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(F) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

(G) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before June 20, 1960.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-4211; Filed, May 10, 1960; 8:47 a.m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

ASSISTANT COMMISSIONER FOR ADMINISTRATION

Delegation of Authority

Section II, Delegations of Final Authority is amended as follows:

Paragraph E9 is added as follows:

9. To make advance payments, whenever in his judgment this is necessary, with respect to conracts with any Federal, State, or local public agency or instrumentality as authorized by Section 502(c)(2) of Public Law 901, 80th Congress:

Assistant Commissioner for Administration.

Approved: May 4, 1960.

[SEAL] LAWRENCE DAVERN,
Acting Commissioner.

[F.R. Doc. 60-4212; Filed, May 10, 1960; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24A-1257]

AMERICAN INVESTORS SYNDICATE, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MAY 5, 1960.

I. American Investors Syndicate, Inc. (issuer), a Louisiana corporation, 513 International Trade Mart, New Orleans, Louisiana, filed with the Commission on February 24, 1959, a notification on Form 1-A and an offering circular relating to a proposed offering of 100,000 shares of its 10 cent par value common stock at 50 cents per share for an aggregate of $50,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The offering circular fails to disclose the name and address of an underwriter and the nature of his material interest.

2. The notification on Form 1-A fails to include as an exhibit a consent and certification signed by each underwriter of the securities to be offered as required by Item 11(c).

3. The purported final report on Form 2-A filed by the issuer states that the distribution was completed on June 15, 1959, whereas the distribution in fact continued after that date.

4. The issuer offered and sold its securities in jurisdictions other than the one set forth in the notification.

5. The final report on Form 2-A fails to disclose adequately and accurately the use of proceeds by the issuer, particularly with respect to:

a. the total expenses and the balance of cash proceeds on hand;

b. the statement that the issuer was able to induce the architects to absorb the cost of a feasibility and economic survey;

c. the $700 payment made to the architects to reimburse them for "out of pocket" expenses;

d. the use of part of the proceeds by the issuer to pay a substantial amount of the expenses of an affiliate issuer and an affiliate underwriter.

6. The failure to disclose in the notification the name and address of a promoter as required by Item 3(c).

7. The failure to disclose in the notification that an affiliate issuer is presently offering or presently contemplates the offering of securities in addition to those covered by this notification as required by Item 10.

B. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances in which they are made, not misleading, particularly with respect to:

1. The failure to disclose adequately and accurately in the offering circular, the proposed use of proceeds particularly with respect to:

a. the statement that $25,000 would be used to pay a retainer fee to architects for plans and specifications;

b. the statement that $2,000 would be used to defray the cost of a survey by an independent industrial management firm;

c. the statement that $3,000 would be used as working capital.

2. The failure to disclose in the offering circular the issuer's payment of salaries to two of its promoters.

3. The failure to disclose in the offering circular that the issuer is obligated to pay a substantial amount of the expenses of an affiliated issuer and an affiliated underwriter.

4. The statements in the notification to the effect that Robert K. Morrill was an incorporator of the issuer; that he had originally subscribed for 1,000 shares of the issuer's common stock and thereafter sold the said shares to Charles E. McHale, Jr.

C. The offering was made and is being made in violation of Section 17 of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261 (a) of the general rules and regulations under the Securities Act of 1933, as

amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4215; Filed, May 10, 1960; 8:47 a.m.]

[File No. 24B-1078]

BARNSTABLE BAY, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MAY 5, 1960.

I. Barnstable Bay, Inc. (issuer), a Massachusetts corporation, Dennis, Massachusetts, filed with the Commission on March 31, 1959 a notification on Form 1-A and an offering circular relating to a proposed public offering of undivided fractional interests in Wanderlust Motel Properties in the aggregate amount of $204,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. An exemption under Regulation A is unavailable in that the issuer is subject to an order of a court of competent jurisdiction permanently enjoining the issuer from violations of section 5 of the Securities Act.

B. The terms and conditions of Regulation A have not been complied with in that the securities have been and are being sold by the use of sales literature which has not been filed in accordance with Rule 258.

C. The offering has been and would be made in violation of section 17 of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4216; Filed, May 10, 1960; 8:47 a.m.]

[File No. 24A-1341]

MUTUAL EMPLOYEES TRADEMART, INC.

Notice and Order for Hearing

MAY 5, 1960.

I. Mutual Employees Trademart, Inc. (issuer), a Delaware corporation, 1055 Hialeah Drive, Hialeah, Florida, filed with the Commission on February 25, 1960 a notification on Form 1-A and an offering circular relating to a proposed public offering of 200,000 shares of its $1 par value common stock at $1.50 per share for an aggregate of $300,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder.

II. The Commission on March 21, 1960, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the exemption under Regulation A and affording to any person having an interest therein, an opportunity to request a hearing pursuant to Rule 261. A written request for hearing was received by the Commission.

The Commission deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption,

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be heard at the Atlanta Regional Office of the Commission, Suite 138, at 1371 Peachtree Street NE., Atlanta 9, Georgia, at 10:00 a.m. e.s.t., June 13, 1960 with respect to the following matters and questions without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether an exemption under Regulation A is unavailable in that the aggregate offering price of the securities which have been and are to be offered exceed the $300,000 ceiling limitation imposed by Rule 253(c) and 254(a).

B. Whether the terms and conditions of Regulation A have not been complied with in that:

1. The notification on Form 1-A fails to set forth the names and addresses of a corporation and an individual as affiliates of the issuer as required by Item 2 thereof;

2. The offering circular fails to disclose adequately material transactions between the issuer and insiders as required by Paragraph 9(c) of Schedule I;

3. The offering circular fails to disclose adequately the terms of the underwriting agreement.

C. Whether the offering circular contains untrue statements of material facts and omits to state material facts necessary, in order to make the statement made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The manner and extent to which the securities being offered will be diluted due to the issuer's insolvency and its issuance of shares of stock to an affiliate;

2. The effect of the offering of securities hereunder on the holdings of insiders and the relative control of the issuer by insiders.

D. Whether the offering would be made in violation of Section 17 of the Securities Act of 1933, as amended.

III. *It is further ordered,* That Irving Schiller or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing; that any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 19(b), 21 and 22(c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Mutual Employees Trademart, Inc.; that notice of the entering of this order shall be given to all persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in the hearing shall file with the Secretary of the Commission on or before June 11, 1960, a request relative thereto as provided in Rule VXII of the Commission's Rules of Practice.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4217; Filed, May 10, 1960; 8:48 a.m.]

[File No. 24A-1228]

OIL, GAS & MINERALS, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MAY 5, 1960

I. Oil, Gas & Minerals, Inc. (issuer), a Louisiana corporation, 513 International Trade Mart, New Orleans, Louisiana, filed with the Commission on November 17, 1958, a notification on Form 1-A and an offering circular relating to a proposed offering of 116,000 shares of its 35 cents par value stock, 14,000 shares of which are reserved as payment to officers for services in lieu of salary, at $1 per share for an aggregate of $102,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The issuer offered and sold its securities prior to expiration of the waiting period prescribed by Rule 255(a).

2. The offering circular fails to disclose the name and address of an underwriter and the nature of his material interest.

3. The notification on Form 1-A fails to include as an exhibit a consent and certification signed by each underwriter of the securities to be offered as required by Item 11(c).

4. The purported final report on Form 2-A filed by the issuer states that the distribution was completed on January 14, 1959 whereas the distribution in fact continued after that date.

5. The final report on Form 2-A fails to disclose that a payment of $64,000 was made from the proceeds of the offering for the purpose of making a payment on the purchase of New Orleans real estate as required by Item 7 thereof.

B. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances in which they are made, not misleading, particularly with respect to:

1. The failure to disclose in the offering circular that the issuer had entered into purchase agreements relating to the purchase of real estate located in New Orleans.

2. The failure to disclose adequately and accurately the proposed use of proceeds particularly with respect to:

a. The payment of $21,000 made under said purchase agreements.

b. The statement that the capital accumulated by selling its shares will be used to buy, own and invest in producing oil and gas properties.

c. The statement that $37,500 would be used for retirement of a loan.

3. The failure to disclose adequately and accurately the nature of the issuer's business particularly with respect to the issuer's commitment to enter the real estate development field.

4. The failure to furnish appropriate financial statements prepared in accordance with generally accepted accounting principles and practices particularly with respect to the issuer's treatment of the Geophysical Report.

5. The adequacy and accuracy of the statement in note (2) to the balance sheet in the offering circular that the oil wells in which the issuer has a working interest "should last for an additional six year period, during which it should produce 45,784 bbls. and has a present worth of about $100,000."

6. The failure to disclose in the offering circular a restriction on the resale of the securities proposed to be offered as set out in the Articles of Incorporation.

7. The statement in the offering circular under "Management" that Mr. Joseph D. Lindsay had been chosen as a Vice-President of the issuer as of November 1, 1958.

C. A written communication sent to all shareholders for the purpose of making a rescission offer contains the untrue statement of material fact that the lease relating to real estate owned by the issuer calls for initial payments of $1,500 monthly to be periodically increased to monthly payments of $2,000.

D. The offering was made in violation of Section 17 of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4218; Filed, May 10, 1960; 8:48 a.m.]

[File No. 1-3865]

SKIATRON ELECTRONICS AND TELEVISION CORP.

Order Summarily Suspending Trading

MAY 5, 1960.

In the matter of trading on the American Stock Exchange In the Common Stock, Par Value 10¢ per share of Skiatron Electronics and Television Corporation; File No. 1-3865.

The common stock, par value 10 cents per share of Skiatron Electronics and Television Corporation, being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, May 6, 1960, to May 15, 1960, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4219; Filed, May 10, 1960; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 17]

APPLICATIONS FOR MOTOR CARRIER CERTIFICATE OR PERMIT DURING "INTERIM" PERIOD

MAY 6, 1960.

The following application was filed under the "interim" clause of section 7(c) of the Transportation Act of 1958.

Appropriate protests to this application (consisting of an original and six copies each) must be filed with the Commission at Washington, D.C., within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 108654 (Sub No. 1) (REPUBLICATION), filed December 8, 1958, published in the FEDERAL REGISTER, issue of April 6, 1959.

Applicant: NED KOFFORD, P.O. Box 156, Orem, Utah. Applicant's attorney: Bartly G. McDonough, 10 Executive Building, 455 East Fourth South, Salt Lake City 11, Utah. By application filed December 8, 1958, the above-named applicant sought authority under section 7 of the Transportation Act of 1958, to continue operations, as a *common carrier*, instituted subsequent to May 1, 1958, but on or before August 12, 1958, in the transportation of: *Frozen berries* and *frozen vegetables* in straight and in mixed loads with *certain exempt commodities*, from Provo, Utah, to Los Angeles and San Francisco, Calif. The application was accepted and processed, in error, as a "grandfather" application. The following is an order of the Commission, Division 1, entered in the subject proceeding:

ORDER

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 21st day of April A.D. 1960.

No. MC-108654 (SUB-No. 1)

NED KOFFORD COMMON CARRIER "GRANDFATHER" APPLICATION, OREM, UTAH

It appearing that by application filed December 8, 1958, applicant filed a Form BOR-2 application for an interim certificate of public convenience and necessity;

It further appearing that the application was erroneously published as a Form BOR-1 "grandfather" application;

It further appearing that the recommended order of the joint board, accompanied by its report, would deny the application for failure to establish the right to a certificate under the "grandfather" provisions of section 7(c) of the Transportation Act of 1958;

And it further appearing that by exceptions dated January 22, 1960, applicant contests the recommended denial of the joint board;

and good cause appearing therefor:

It is ordered, That the proceeding be, and it is hereby, reopened for oral hearing at a time and place to be hereafter fixed;

It is further ordered, That notice of the application *as filed*, and notice of the action here taken, be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 60-4237; Filed, May 10, 1960; 8:49 a.m.]

[Notice 123]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 6, 1960.

The following letter-notices of proposals to operate over deviation route for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(8)) and notices thereof to all interested persons are hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protest against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-10928 (Deviation No. 6), SOUTHERN-PLAZA EXPRESS, INC., P.O. Box 10572, Dallas 7, Texas, filed April 15, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 90 and Texas Highway 235 near Vidor, Tex., over Texas Highway 235 to the Texas-Louisiana State line, thence over Louisiana Highway 12 to Ragley, La., thence over U.S. Highway 190 to junction U.S. Highway 61 at east end of the Mississippi River bridge, Baton Rouge, La., thence over U.S. Highway 61 to New Orleans, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From the junction of U.S. Highway 90 and Texas Highway 235 near Vidor, Texas over U.S. Highway 90 via Lake Charles and Lafayette to New Orleans, and return over the same route.

No. MC-17778 (Deviation No. 1), YALE TRANSPORT CORP., 460 12th Avenue, New York, N.Y., filed April 21, 1960. Carrier's representative: Joseph W. Watson. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions over deviation routes as follows: (A) from New York, N.Y., over the New England thruway to Port Chester, N.Y., thence over the Connecticut turnpike to Exit 48 near New Haven, Conn., thence over the Wilbur Cross Parkway to the junction with Route 4 north of Meriden, Conn., and thence over Route 4 to junction U.S. Highway 5; (B) from a point north of Springfield, Mass., over U.S. Highway 5 to the junction with Massachusetts turnpike at interchange No. 4, thence over the Massachusetts turnpike to interchange No. 10 and thence over Massachusetts Highway 12 to Worcester, Mass.; (C) from a point north of Springfield, Mass., over U.S. Highway 5 to the Massachusetts Turnpike at interchange No. 4, thence over the Massachusetts turnpike to interchange No. 14, thence over Massachusetts Highway 128 to junction Massachusetts Highway 9, and thence over Massachusetts Highway 9 to Boston, Mass.; (D) from New York over New England thruway to Port Chester, N.Y., thence over the Connecticut turnpike to interchange No. 76 west of New London, Conn., and then return to U.S. Highway 1 or continuing along the Connecticut turnpike to interchange No. 91 at South Killingly, Conn., thence over U.S. Highway 6 to Providence, R.I., and thence return to U.S. Highway 1; (E) from New York through the Lincoln tunnel to New Jersey turnpike interchange No. 16, thence over the New Jersey turnpike to its southern terminus, thence over Delaware Memorial Bridge to junction U.S. Highway 40; (F) from New York through the Lincoln tunnel to junction New Jersey turnpike interchange No. 16, thence over the New Jersey turnpike to New Brunswick, N.J., interchange No. 9, thence return to U.S. Highway 1; and (G) from New York through the Lincoln tunnel to New Jersey turnpike interchange No. 16, thence over New Jersey turnpike to Exit No. 6, thence across the turnpike bridge to junction the Pennsylvania turnpike, thence over the Pennsylvania Turnpike to Interchange No. 4, thence return to U.S. Highway 1; (H) from Baltimore, Md., over the Baltimore-Washington Expressway to junction the Dorsey Road, and thence return to U.S. Highway 1; (I) from New York through the Lincoln tunnel to junction New Jersey Highway 3, thence over New Jersey Highway 3 to junction New Jersey Highway 17, below East Rutherford, thence over New Jersey Highway 17 to Mahwah, N.J., thence over New York thruway to Albany, N.Y.; and (J) from New York over the Major Deagan Highway to Yonkers, N.Y., thence over the New York thruway to Albany, and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From New York over U.S. Highway 1 to New Haven, Conn., thence over U.S. Highway 5, to Springfield, Mass., thence over U.S. Highway 20 to Boston; from New York over U.S. Highway 1 via Westerly and Providence, R.I. to Boston (also from Westerly over Rhode Island Highway 3 to Providence, R.I., and thence over U.S. Highway 1 to Boston); from New York over U.S. Highway 1 via Philadelphia, Pa., to junction U.S. Highway 40, thence over U.S. Highway 40 to Baltimore, Md. (also, from Philadelphia over U.S. Highway 1 to Baltimore, and thence over U.S. Highway 130 to Washington, D.C.); from New York over U.S. Highway 1 to junction U.S. Highway 130, thence over U.S. Highway 130 to Pennsville, N.J., thence over U.S. Highway 40 to Baltimore, Md., and thence over U.S. Highway 1 to Washington, D.C.; from New York over U.S. Highway 9 to Albany, N.Y. (also from New York across the Hudson River to junction U.S. Highway 9W, thence over U.S. Highway 9W to Albany), thence over New York Highway 5 to Amsterdam, and return over the same routes.

No. MC-69116 (Deviation No. 6), SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago 8, Ill. Filed April 22, 1960. Carrier proposes to operate as a *common carrier*, by

motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 94 and 12, east of Hudson, Wis., over U.S. Highway 94 to junction U.S. Highway 12 west of Eau Claire, Wis., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between the same points over U.S. Highway 12.

No. MC–72444 (Deviation No. 8), AKRON-CHICAGO TRANSPORTATION COMPANY, INC., 1016 Triplett Boulevard, Akron 6, Ohio, filed April 18, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From a point south of Painesville, Ohio, over Interstate Highway 90 to its junction with the New York State Thruway at the New York-Pennsylvania State line, and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Painesville and Ripley, N.Y., over U.S. Highway 20.

No. MC–72444 (Deviation No. 9), AKRON-CHICAGO TRANSPORTATION COMPANY, INC., 1016 Triplett Boulevard, Akron 6, Ohio, filed April 18, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 71 and Ohio Highway 18 over Interstate Highway 71 to Columbus, Ohio, and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Akron, Ohio over Ohio Highway 18 to junction U.S. Highway 42, thence over U.S. Highway 42 to junction U.S. Highway 23, thence over U.S. Highway 23 to Columbus, and return over the same route.

No. MC–78632 (Deviation No. 4), HOOVER MOTOR EXPRESS COMPANY, INC., P.O. Box 450, Nashville, Tenn., filed April 21, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Louisville, Ky., over the Kentucky turnpike to Elizabethtown, Ky., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Louisville and Elizabethtown over U.S. Highway 31W.

No. MC–104004 (Deviation No. 3), ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York 17, N.Y., filed April 25, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Buffalo over Interstate Highway 90 to Cleveland, Ohio, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Buffalo and Cleveland over U.S. Highway 20.

No. MC–111594 (Deviation No. 2), CENTRAL WISCONSIN MOTOR TRANSPORT COMPANY, P.O. Box 200, Wisconsin Rapids, Wis., filed April 18, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Milwaukee, Wis., over U.S. Highway 41 to Fond du Lac, Wis., thence over U.S. Highway 41 to Oshkosh, Wis., and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Milwaukee over Wisconsin Highway 175 to Fond du Lac, thence over Wisconsin Highway 175 to junction U.S. Highway 45, thence over U.S. Highway 45 to Oshkosh, and return over the same route.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–4238; Filed, May 10, 1960; 8:49 a.m.]

[Notice 322]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 6, 1960.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209 and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub No. 181) (Republication), filed April 5, 1960, published in the May 4, 1960 issue of the FEDERAL REGISTER. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, Oakland, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid hydrogen*, in bulk, in shipper-owned trailers, from the Plant Site of the Air Products Company at Painesville, Ohio, and the Plant Site of the Air Products Company located near West Palm Beach, Fla., to Nimbus and Azusa, Calif. *Empty shipper-owned trailers*, from Nimbus and Azusa, Calif., to the Plant Site of the Air Products Company near West Palm Beach, Fla., and the Plant Site of the Air Products Company at Painesville, Ohio.

NOTE: Applicant states it controls through stock ownership the freight forwarder operations of Pacific and Atlantic Shippers, Inc., and its affiliated companies, Permit No. FF–52.

HEARING: Remains as assigned June 16, 1960, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 1124 (Sub No. 169) (Correction), filed March 4, 1960, published in the April 13, 1960 issue of the FEDERAL REGISTER. Applicant: HERRIN TRANSPORTATION COMPANY, a Corporation, 2301 McKinney Avenue, Houston, Tex. Applicant's attorney: Leroy Hallman, 617 First National Bank Building, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except Classes A and B explosives, articles of unusual value, livestock, currency, bullion, articles of virtu, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, serving Sterlington and Pace Lake, La., near Louisiana Highway 143 and approximately 18 miles north of Monroe, La.; Bastrop, La., on U.S. Highway *165, and approximately 26 miles north of Monroe, La.; Elizabeth, La., on Louisiana Highway* 10 and approximately 9 miles west of Oakdale, La.; Carboco, La., on Louisiana Highway 29 and approximately 20 miles north of Ville Platte, La.; and Springhill, La., on Louisiana Highway 7 approximately 28 miles south of Magnolia, Ark., as off-route points in connection with applicant's authorized regular route operations, coordinating service to such off-route points with applicant's present operations under Certificates in No. MC 1124 and subs.

NOTE: Applicant states it proposes to transport traffic between each of the above-named Louisiana points and all other points it now serves including points in Florida, Arkansas, Texas, and Tennessee. The purpose of this correction is to include the italicized portion of description which was inadvertently omitted in the previous publication.

HEARING: Remains as assigned June 8, 1960, at the Federal Office Building, 600 South Street, New Orleans, La., before Joint Board No. 164, or, if the Joint Board waives its right to participate, before Examiner Donald R. Sutherland.

No. MC 1187 (Sub No. 23), filed April 27, 1960. Applicant: CUSHMAN MOTOR DELIVERY COMPANY, a Corporation, 1480 West Kinzie Street, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, serving the site of the Kelsey Hayes Company plant, located at 38481 Huron River Drive, Romulus, Mich., as an off-route point in connection with applicant's authorized regular route operations.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Joint

Board No. 76, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 2202 (Sub No. 185), filed March 24, 1960. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, Akron, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the new plant site of the J. M. Huber Corporation at or near Eldon, Texas, as an off-route point in connection with applicant's presently authorized routes to and from Houston, Texas.

HEARING: July 20, 1960, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Joint Board No. 77, or, if the Joint Board waives its right to participate before Examiner James H. Gaffney.

No. MC 3107 (Sub No. 15) Filed April 28, 1960. Applicant: WHITE OWL EXPRESS, INC., 212 Osmun Street, Pontiac, Mich. Applicant's Attorney: William B. Elmer, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Kelsey Hayes Company plant, located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., as an off-route point in connection with applicant's authorized regular route operations to and from Detroit, Mich., and the Commercial Zone thereof.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 3468 (Sub No. 143), filed April 6, 1960. Applicant: F. J. BOUTELL DRIVEAWAY, CO., INC., 705 South Dort Highway, Flint 1, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles*, in initial movements, in truckaway service, from Pontiac, Mich., to points in Virginia, North Carolina, and South Carolina, and (2) *Motor vehicles*, in truckaway service between Cleveland and Edinburg, Ohio, on the one hand, and, on the other, points in Virginia, North Carolina, and South Carolina.

HEARING: June 15, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Isadore Freidson.

No. MC 4966 (Sub No. 10) filed April 28, 1960. Applicant: JONES TRANSFER COMPANY, a Corporation, 927 Washington Street, Monroe, Mich. Applicant's attorney: William B. Elmer, 1800 Buhl Building, Detroit, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Kelsey Hayes Company plant, located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., as an off-route point in connection with applicant's authorized regular route operations to and from Detroit, Mich., and the Commercial Zone thereof.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 22195 (Sub No. 76), filed March 24, 1960. Applicant: DAN S. DUGAN, doing business as DUGAN OIL & TRANSPORT CO., P.O. Box 946, 41st Street and Orange Avenue, Sioux Falls, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the site of the Oil Basin Pipeline Terminal at or near Minot, N. Dak., to points in Montana, South Dakota and Minnesota, and *rejected shipments* of the commodities specified in this application on return.

HEARING: July 20, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Examiner Lyle C. Farmer.

No. MC 28132 (Sub No. 55), filed April 25, 1960. Applicant: HVIDSTEN TRANSPORT, INC., 2821 Main Avenue, Fargo, N. Dak. Applicant's attorney: Alan Foss, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Minot, N. Dak., and points within 25 miles thereof to points in Montana, South Dakota, Minnesota, and North Dakota.

HEARING: July 20, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Examiner Lyle C. Farmer.

No. MC 28132 (Sub No. 56), filed April 28, 1960. Applicant: HVIDSTEN TRANSPORT, INC., 2821 Main Avenue, Fargo, N. Dak. Applicant's attorney: Alan Foss, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan.

HEARING: June 20, 1960, in Room 401 Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 29079 (Sub No. 9), filed April 28, 1960. Applicant: BRADA CARTAGE COMPANY, a CORPORATION, 4001 Central Avenue, Detroit 10, Mich. Applicant's attorney: William B. Elmer, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel*, and *iron and steel products*, from the plant site of Kelsey Hayes Company located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., to Rockford, Ill., and points in Ohio, Indiana, and Chicago, Ill., and (2) from Newport and Ashland, Ky., to the plant site of Kelsey Hayes Company located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Examiner Charles J. Murphy.

No. MC 30837 (Sub No. 276) filed April 29, 1960. Applicant: KENOSHA AUTO TRANSPORT CORP., 4519 76th Street, Kenosha, Wis. Applicant's attorney: Paul F. Sullivan, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, in initial movements by the truckaway method, from Selma, Calif., to points in the United States except Hawaii.

HEARING: June 14, 1960, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 38170 (Sub No. 19), filed May 2, 1960. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, Mich. Applicant's attorney: Rex Eames, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except Classes A and B explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, serving the plant site of the Kelsey-Hayes Company located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., as an off route point in connection with carrier's regular route operations to and from Detroit, Mich., and the Commercial Zone thereof.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 43475 (Sub No. 45), (CORRECTION), filed March 31, 1960, published in the FEDERAL REGISTER, issue of May 4, 1960. Applicant: GLENDENNING MOTORWAYS, INC., 820 Hampden Avenue, St. Paul 14, Minn. Applicant's attorney: James L. Nelson, E–1510 First National Bank Building, St. Paul 1, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment other than those requiring special han-

dling because of size or weight, serving the site of the Big Bend Dam, located approximately fourteen (14) miles Northwest of Fort Thompson, S. Dak., on the Missouri River, and construction installations within ten (10) miles of the Big Bend Dam, as an off-route point in connection with applicant's authorized regular-route operations to and from Fort Thompson, S. Dak.

NOTE: The purpose of this republication is to designate the correct place of hearing at Pierre, S. Dak., erroneously shown in previous publication as Piette, S. Dak.

HEARING: June 14, 1960, at the South Dakota Public Utilities Commission, Pierre, S. Dak., before Joint Board No. 230, or, if the Joint Board waives its right to participate, before Examiner Leo M. Pellerzi.

No. MC 49504 (Sub No. 11), filed April 4, 1960. Applicant: McCUE TRANSFER, INC., P.O. Box 445, Hutchinson, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pepper,* ground or not ground, in mixed shipments with salt and salt products, not to exceed ten (10) percent of the total weight of each shipment, from Hutchinson, Kans., and points within one (1) mile thereof, to points in Nebraska, Minnesota, North Dakota, South Dakota, Missouri (except St. Joseph, St. Louis, and points in the Kansas City, Mo.-Kansas City, Kans. Commercial Zone). Wyoming, Arkansas, points in the following counties in TEXAS—Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallam, Cottle, Hall, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Kent, Terry, Motley, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Donley, Moore, Hockley, Farmer, Deaf Smith, Hemphill, Hardeman, and Garza, and points in the following Counties in NEW MEXICO—Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, Rio Arriba, Catron, Chaves, De Baca, Dona Ana, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Roosevelt, Sandoval, San Juan, Sierra, Socorro, and Valencia, and *empty containers or other such incidental facilities* used in transporting pepper, on return.

HEARING: July 19, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 50544 (Sub No. 45), filed April 18, 1960. Applicant: THE TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY, a Corporation, 1025 Elm Street, Dallas 2, Tex. Applicant's attorney: Claude R. Wilson, Jr., The Texas and Pacific Railway Company Law Department, Dallas 2, Tex. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities (no exceptions),* between Savoy, Texas and the site of new generating plant of the Texas Power and Light Co., at a point to be known as Valley, Texas, as follows: Over Farm-to-Market Highway 1752 and access roads necessary to serve the above plant. Serving no intermediate or off-route points.

NOTE: Applicant states it is a wholly owned subsidiary of the Texas and Pacific Railway Company.

HEARING: July 14, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 52110 (Sub No. 69), filed April 28, 1960. Applicant: BRADY MOTOR-FRATE, INC., 1223 Sixth Avenue, Des Moines, Iowa. Applicant's attorney: Homer E. Bradshaw, Suite 510 Central National Building, Des Moines 9, Iowa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, bullion, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and *empty containers or other such incidental facilities,* used in transporting the above-described commodities, between Fort Wayne, Ind., and the plant site of the B. F. Goodrich Tire Company in Milan Township, Allen County, approximately 11 airline or 13 highway miles from the city limits of Fort Wayne, Ind., on U.S. Highway 24 between county roads—Webster and Garver.

HEARING: June 13, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72.

No. MC 52869 (Sub No. 58), filed March 3, 1960. Applicant: NORTHERN TANK LINE (Corporation), 8 South Seventh Street, Miles City, Mont. Applicant's attorney: Robert W. Burchmore, 2106 Field Building, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, in tank vehicles, from the Oil Basin Pipeline Terminal at Minot, N. Dak., to points in South Dakota and Minnesota and *contaminated or refused products* on return.

HEARING: July 20, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Joint Board No. 143, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 55236 (Sub No. 43), filed March 11, 1960. Applicant: OLSON TRANSPORTATION COMPANY, a Corporation, 1970 South Broadway, P.O. Box 1187, Green Bay, Wis. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting, (1) *Petroleum refined wax,* in bulk, in tank vehicles from Whiting, Ind., to Kansas City, Mo.; and (2) *Hydrofluorosilicic acid,* in bulk, in tank vehicles, from Chicago Heights, Ill., to Kalamazoo, Mich.

HEARING: June 23, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 55811 (Sub No. 60), filed February 18, 1960. Applicant: CRAIG TRUCKING, INC., Albany, Ind. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Popcorn,* in popping containers, from LaPorte, Ind., to points in Illinois, Ohio, the Lower Peninsula of Michigan, those in Iowa within ten miles of the Iowa-Illinois State line, those in Missouri within ten miles of the Missouri-Illinois State line, those in. Kentucky within ten miles of the Kentucky-Illinois State line, the Kentucky-Indiana State line and the Kentucky-Ohio State line, those in West Virginia within ten miles of the West Virginia-Ohio State line, and those in Pennsylvania on and west of U.S. Highway 219, and *equipment, materials* and *supplies* used or useful in the preparation of shipping of popcorn and popping containers, on return.

HEARING: June 27, 1960, in the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 55811 (Sub No. 61), filed February 26, 1960. Applicant: CRAIG TRUCKING, INC. Albany, Ind. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Containers and cartons, materials and supplies used or useful in the manufacture, packing, shipping and sale thereof,* between Seymour, Ind. and fifteen (15) miles thereof and points in Ohio, those in Pennsylvania on the west of U.S. Highway 219, those in West Virginia within ten (10) miles of the West Virginia-Ohio State Line, including Hancock, Brooke, and Marshall Counties, W. Va., and those in Kentucky within ten (10) miles of the Kentucky-Ohio State Line, the Kentucky-Indiana State Line and the Kentucky-Illinois State Line.

HEARING: June 28, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 55811 (Sub No. 62), filed February 29, 1960. Applicant: CRAIG TRUCKING, INC., Albany, Ind. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs and food preparations, equipment, materials* and *supplies* used or useful in the manufacture, packing, shipping and sale thereof, between Austin, Ind. and fifteen (15) miles thereof, on the one hand, and, on the other, points in Ohio, points in that part of Pennsylvania on and west of U.S. Highway 219, points in that part of West Virginia within ten (10) miles of the West Virginia-Ohio State line, including Hancock, Brooke and Marshall Counties, W. Va., points in that part of Kentucky within ten (10) miles of the Kentucky-Ohio State line, the Kentucky-Indiana State line and the Kentucky-Illinois State line.

HEARING: June 30, 1960, at the U.S. Court Rooms, Indianapolis, Ind., Before Examiner James O'D. Moran.

No. MC 58311 (Sub No. 13), filed March 29, 1960. Applicant: BALL

BROTHERS TRUCKING COMPANY, INC., 1500 Eagle Drive, P.O. Box 11008, Fort Worth, Tex. Applicant's attorney: M. Ward Bailey, 807 Continental Life Building, Fort Worth 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Pipe*, other than pipe used in, or in connection with the discovery, development, productions, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and other products, and by-products; and *pipe-couplings, connections* or *fittings*, when moving in connection therewith, from Lone Star and Bond, Texas to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas, and *damaged rejected or returned shipments*, on return.

HEARING: July 12, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 61592 (Sub No. 6), filed April 11, 1960. Applicant: K & A TRUCK LINES, INC., 3708 Elm Street, Bettendorf, Iowa. Applicant's representative: William A. Landau, 1307 Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, tractors with or without attachments*, and *parts*, from Bettendorf, Iowa, and Rock Island, Ill., to points in Minnesota and Wisconsin.

NOTE: Applicant states it presently holds authority to serve the southern half of Wisconsin and serves points in Minnesota by joinder of rights at Ida Grove, Iowa. No duplication of existing rights is being sought.

HEARING: June 22, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 64932 (Sub No. 272), filed April 5, 1960. Applicant: ROGERS CARTAGE CO., a Corporation, 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fatty acids* and *fatty acid products*, in bulk, in tank vehicles, from Kankakee, Ill., to Baltimore, Md.

HEARING: July 13, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 92983 (Sub No. 375), filed March 31, 1960. Applicant: ELDON MILLER, INC., 330 East Washington Street, P.O. Box 232, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives and glue*, in bulk, in tank vehicles, from Kansas City, Kans., to points in Colorado, Iowa, Missouri, Nebraska, and Oklahoma.

HEARING: July 22, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 95876 (Sub No. 16), filed February 25, 1960. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite, stone, marble*, and *slate*, (1) from points in Minnesota and from points in Grant and Codington Counties, S. Dak., to points in Arizona, California, Idaho, Maine, Nevada, Oregon, New Mexico, Utah, Washington, Wyoming, Montana, and Colorado; and (2) from points in Codington County, S. Dak., to points in Grant County, S. Dak.

HEARING: June 14, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner James O'D. Moran.

No. MC 95876 (Sub No. 17), filed March 7, 1960. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and manufactured granite, marble, slate and stone*, from points in Georgia to points in Kansas, Nebraska, South Dakota, North Dakota, Minnesota, and Iowa.

HEARING: July 14, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner Lyle C. Farmer.

No. MC 101075 (Sub No. 60), filed May 2, 1960. Applicant: TRANSPORT, INC., 1215 Center Avenue, Moorhead, Minn. Applicant's attorney: Val M. Higgins, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied Petroleum gas*, in bulk, in tank vehicles, and *rejected shipments* of the above commodity, between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Upper Peninsula of Michigan, and Wisconsin.

HEARING: June 20, 1960, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 102567 (Sub No. 79), filed April 21, 1960. Applicant: EARL CLARENCE GIBBON, doing business as EARL GIBBON PETROLEUM TRANSPORT, 235 Benton Road, Bossier City, La. Applicant's attorney: Jo E. Shaw, Bettes Building, Houston, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tall oil* and *tall oil products*, in bulk, in tank vehicles, from Springhill, La. to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Oklahoma, Michigan, Minnesota, Mississippi, Missouri, Tennessee, Texas, and Wisconsin.

NOTE: Applicant states no duplication of existing authority is sought.

HEARING: July 15, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 105413 (Sub No. 9), filed April 27, 1960. Applicant: PETROLEUM TRANSPORT SERVICE, INC., Route No. 1, Council Bluffs, Iowa. Applicant's attorney: C. J. Burrill, 904 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum gas*, in bulk, in tank vehicles, and *damaged or rejected shipments, empty containers or other such incidental facilities*, used in transporting the above-described commodities, between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, the Upper Peninsula of Michigan, and Wisconsin.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a common or contract carrier in No. MC 50028 Sub 10, therefore dual operations may be involved.

HEARING: June 20, 1960, in Room 401 Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 106398 (Sub No. 140), filed November 16, 1959. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Box 8096 Dawson Station, Tulsa, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobile, in truckaway service, in initial movement, from all points in Kansas except Coffeyville, Hutchinson, McPherson, Newton, Great Bend, and Wichita, to all points in the United States including Alaska. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 27, 1960, at the Hotel Lassen, Wichita, Kansas, before Examiner Isadore Freidson.

No. MC 106400 (Sub No. 27), filed April 1, 1960. Applicant: KAW TRANSPORT COMPANY, 701 North Sterling, Sugar Creek, Mo. Applicant's attorney: Henry M. Shughart, 914 Commerce Building, Kansas City, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum* gases, in bulk, in specialized vehicles, between points in Missouri, Kansas, Nebraska, and Iowa.

HEARING: July 21, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 106485 (Sub No. 5), filed March 7, 1960. Applicant: JOHN B. GRANDADAM, doing business as GRANDADAM TRUCK LINES, P.O. Box 12, 119 North 23rd Street, Fargo, N. Dak. Applicant's attorney: Lee F. Brooks, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, commodities requiring special equipment, and those injurious or contaminating to other lading, between Ashley, N. Dak., and Edgeley, N. Dak.: from Ashley over North Dakota Highway 3 to Wishek and thence over North Dakota Highway 13 to Edgeley, and return over the same route, serving the intermediate points of Wishek, Lehr, Fredonia and Kulm and the off route points of Forbes and Monango.

HEARING: July 25, 1960, at the U.S. Court Rooms, Fargo, N. Dak., before Joint Board No. 300, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 106603 (Sub No. 60), filed April 14, 1960. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids 8, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Insulating materials,* including *mineral wool (clay, rock, slag* or *glass wool),* from Grand Rapids, Mich., to points in Indiana south of U.S. Highway 40, with return of *empty shipping devices,* including but not limited to totes, bins, pallets and skids.

HEARING: June 14, 1960, at the Olds Hotel, Lansing, Mich., before Joint Board No. 23.

No. MC 107403 (Sub No. 302), filed April 26, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Paul F. Barnes, 811–819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal tar* and *creosote oil,* in bulk, in tank vehicles, between Cleveland, Ohio, and East Liverpool and Wellsville, Ohio.

NOTE: Applicant holds contract carrier authority in Permit No. MC 117637 and Subs thereunder. Dual operations under section 210 may be involved.

HEARING: June 29, 1960, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 117.

No. MC 107515 (Sub No. 350), filed April 1, 1960. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods, prepared dough, meats, meat products, and meat by-products,* and *dairy products,* as defined by the Commission, from points in Texas to points in Mississippi, Louisiana, and Memphis, Tenn. RESTRICTION: Service to points in Mississippi, Louisiana, and Memphis, Tenn., restricted to partial delivery in instances where there is a subsequent partial delivery in the State of Alabama or Georgia or Florida or North Carolina or South Carolina.

NOTE: Dual operations under section 210 may be involved.

HEARING: July 13, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 107515 (Sub No. 351), filed April 12, 1960. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, Suite 214, Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, packinghouse products,* and *commodities used by packinghouses,* as defined by the Commission in Ex Parte MC 45, (1) from Houston and Jetero, Tex., and the commercial zones thereof, to points in Tennessee (except Memphis), Alabama, Florida, Georgia, North Carolina and South Carolina. (2) From Houston and Jetero, Tex., and the commercial zones thereof, to points in Louisiana, Mississippi, and Memphis, Tenn., for partial unloading only, when moving on a through vehicle to points in Tennessee (except Memphis), Alabama, Florida, Georgia, North Carolina, and South Carolina.

NOTE: Common control, and section 210, dual operations, may be involved.

HEARING: July 21, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner James H. Gaffney.

No. MC 107839 (Sub No. 31), filed April 27, 1960. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4716 Humboldt Street, Denver, Colo. Applicant's attorney: Alvin J. Meiklejohn, Jr., Suite 526, Denham Building, Denver 3, Colo. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Gulfport, Miss., to points in Texas, Oklahoma, Kansas, Arkansas, New Mexico, Colorado, Wyoming, Arizona, California, North Dakota, South Dakota, Oregon, Washington, Idaho, Nevada, Montana, Nebraska, and Utah.

HEARING: June 22, 1960, at the Federal Office Building, 600 South Street, New Orleans, La., before Examiner Henry A. Cockrum.

No. MC 108298 (Sub No. 26), filed May 2, 1960. Applicant: ELLIS TRUCKING CO., INC., 1600 Oliver Avenue, Indianapolis, Ind. Applicant's attorney: Harry E Yockey, Morris Plan Building, 108 East Washington Street, Indianapolis, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual value, livestock, Classes A and B explosives, household goods as defined in *Practices of Motor Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk and commodities requiring special equipment, between Detroit, Mich., and the plant site of Kelsey Hayes Company, located at 38481 Huron River Drive, at the intersection of Huron River Drive and Northline Road in Romulus Township, Wayne County, Mich., as an off-route point in connection with applicant's regular route operations to and from Detroit, Mich.

HEARING: June 20, 1960, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 108449 (Sub No. 102), filed April 8, 1960. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul 13, Minn. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products,* in bulk, in tank vehicles, from the Oil Basin Pipeline Terminal at or near Minot, N. Dak., to points in Montana, South Dakota, and Minnesota.

NOTE: Common control may be involved.

HEARING: July 20, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Examiner Lyle C. Farmer.

No. MC 108973 (Sub No. 6), filed March 25, 1960. Applicant: INTERSTATE EXPRESS, INC., 2334 University Avenue, St. Paul 14, Minn. Applicant's attorney: W. P. Knowles, New Richmond, Wis. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products, machinery, equipment, materials and supplies* used in or in connection with the manufacture or processing of paper and paper products, between Schilling, Mont., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, Arkansas, Ohio, Texas, Oklahoma, Wisconsin, Idaho, Colorado, and Minnesota.

HEARING: July 11, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner Lyle C. Farmer.

No. MC 109385 (Sub No. 31), filed April 19, 1960. Applicant: SUBLER TRANSFER, INC., East Main Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 3430 Le Veque-Lincoln Tower, Columbus 15, Ohio. Authority sought to operate as a *contract or common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products,* in refrigerated equipment, between Milwaukee, Wis., and points within the Commercial Zone thereof, on the one hand, and, on the other, points in West Virginia.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act, to determine whether applicant's status is that of a common or contract carrier in No. MC 109385 (Sub No. 16).

HEARING: May 19, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James A. McKiel.

No. MC 109637 (Sub No. 149), filed April 27, 1960. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals,* as described in Appendix XV to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, in bulk, in tank vehicles, between Jeffersonville, Ind., and points within ten (10) miles of Jeffersonville, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE: Common control may be involved.

HEARING: June 6, 1960, at the Kentucky Hotel, Louisville, Ky., before Examiner Charles B. Heineman.

No. MC 109689 (Sub No. 106), filed February 19, 1960. Applicant: W. S. HATCH CO., a Corporation, 643 South

800 West, Woods Cross, Utah. Applicant's attorney: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid fertilizers, liquid fertilizer solutions and ingredients*, and *anhydrous ammonia*, in bulk, from points in Washington east of U.S. Highway 97 to points in California, Montana, Utah, Wyoming, Arizona, Nevada, New Mexico, and Colorado. (2) *Dry fertilizers, dry fertilizer ingredients* and *dry fertilizer compounds* used in the manufacture of commercial fertilizers, in bulk, from points in Washington east of U.S. Highway 97 to points in California, Montana, Utah, Wyoming, Arizona, Nevada, New Mexico, Colorado, Oregon and Idaho. (3) *Rejected and contaminated shipments* of the commodities specified in this application from the above respective destination points to the above respective origin points.

HEARING: June 8, 1960, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Reece Harrison.

No. MC 109723 (sub No. 13), filed February 23, 1960. Applicant: GLENDYL W. STONE, doing business as STONE TRUCKING CO., Box 206, Dale, Ind. Applicant's attorney: Harry J. Harman, 1110–1112 Fidelity Building, Indianapolis 4, Ind. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay products*, from Cannelton, Ind., to points in Alabama and Texas.

HEARING: July 1, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 110420 (Sub No. 255), filed March 25, 1960. Applicant: QUALITY CARRIERS, INC., Calumet Street, Burlington, Wis. Applicant's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: In bulk, in tank vehicles, (1) *Animal fats* and *vegetable oils* and *blends thereof*, from points in Illinois (except Jacksonville and Champaign), to points in Iowa, Ohio and Tennessee. (2) *Vegetable oils*, from Clinton, Iowa, to points in Kansas. (3) *Corn syrup* and *liquid sugar* and *blends or mixtures thereof*, from Indianapolis, Ind., to points in Ohio. (4) *Liquid sugar*, from Pekin, Ill., to Toledo, Ohio. (5) *Chocolate* and *chocolate coating*, from Chicago, Ill., to points in South Dakota.

HEARING: June 21, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 110698 (Sub No. 138), filed April 25, 1960. Applicant: RYDER TANK LINE, INC., P.O. Box 457, Winston Road, Greensboro, N.C. Applicant's attorney: Frank B. Hand, Jr., 522 Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Kanawha and Putnam Counties, W. Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

HEARING: June 9, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner John B. Mealy.

No. MC 110948 (Sub No. 1), filed April 5, 1960. Applicant: SOO-SECURITY MOTORWAYS, LTD., 1465 Ellice Avenue, Winnipeg, Manitoba, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including commodities in bulk*, and *commodities requiring special equipment*, but not including commodities of unusual value, Classes A and B explosives and household goods, as defined by the Commission, between Pembina, N. Dak., and the International Boundary line North of Pembina, N. Dak., over U.S. Highway 81, (also over Interstate Highway 29,) serving no intermediate points.

NOTE: Common control may be involved.

HEARING: July 19, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Joint Board No. 300, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 111472 (Sub No. 65), filed February 29, 1960. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton, Racine, Wis. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, tractors* with or without attachments, and *parts*, from Rock Island, Ill., and Bettendorf, Iowa, to points in Minnesota and Wisconsin, and *rejected shipments* of the above-specified commodities on return.

NOTE: Applicant states no duplication of existing rights is being sought. A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 111472 (Sub. No. 53).

HEARING: June 22, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 111472 (Sub No. 66), filed March 7, 1960. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton, Racine, Wis. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery* and *parts*, from Brodhead, Wis., to points in the United States, including the District of Columbia, but excluding Alaska, and *rejected shipments* of the above-specified commodities, on return.

NOTE: A proceeding has been instituted under section 212(c) in No. MC 111472 (Sub No. 53), to determine whether applicant's status is that of a common or contract carrier.

HEARING: June 24, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. 111557 (Sub No. 25), filed April 7, 1960. Applicant: KARL E. MOMSEN, doing business as MOMSEN TRUCKING CO., North Highway 71 and 18, Spencer, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, between points in Iowa, points in South Dakota on and east of U.S. Highway 281, points in Nebraska on and east of U.S. Highway 81, points in Minnesota on and south of U.S. Highway 212, points in Wisconsin on and south of U.S. Highway 10, including Green Bay, Wis., and those in Illinois on and north of U.S. Highway 34, including points on the designated highways.

HEARING: July 12, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 111661 (Sub No. 1), filed April 7, 1960. Applicant: WILLMER W. GERDIN, GERDIN TRANSFER, INC., Princeton, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slat Cribbing*, wood and wire combined, from Onamia, Minn., to points in Iowa, North Dakota, and South Dakota.

HEARING: July 13, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner Lyle C. Farmer.

No. MC 112442 (Sub No. 12), filed March 28, 1960. Applicant: H. L. MANESS, doing business as H. L. MANESS TRUCK LINE, 233 Wis., Neodesha, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured and processed animal, poultry or fish feed*, in bags or containers and in bulk, from Muncie, Kans., to points in Missouri, Iowa, Nebraska, Oklahoma, Arkansas, and points in that part of Colorado on and east of a line extending south from the Colorado-Wyoming State line (in Larimer County) along U.S. Highway 287 to Denver, Colo., thence along U.S. Highway 85 to the Colorado-New Mexico State line, including points on the indicated portions of the highways specified, and *exempt commodities* on return.

NOTE: A proceeding has been instituted under section 212(c) in No. MC 112442 (Sub No. 9) to determine whether applicant's status is that of a common or contract carrier.

HEARING: July 18, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 112497 (Sub No. 161), filed April 25, 1960. Applicant: HEARIN TANK LINES, INC., 6440 Rawlins Street, P.O. Box 3096, Baton Rouge, La. Applicant's attorney: Harry C. Ames, Hill & Ames, Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, in bulk, in tank vehicles, from Springhill, La., to

points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Oklahoma, Michigan, Minnesota, Mississippi, Missouri, Tennessee, Texas, and Wisconsin.

HEARING: July 14, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 113514 (Sub No. 61), filed April 6, 1960. Applicant: SMITH TRANSIT, INC., 305 Simond Bldg., Dallas 1, Tex. Applicant's attorney: W. D. White, 1900 Mercantile Dallas Building, Dallas 1, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicate of soda*, in bulk, in specialized equipment, from Dallas, Tex., to points in Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma, and Tennessee.

HEARING: July 12 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. MC 113533 (Sub No. 33), filed March 3, 1960. Applicant: WARREN P. JURTZ, doing business as LAKE REFRIGERATED SERVICE, 567 North Broad Avenue, Ridgefield, N.J. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building., Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, from East St. Louis, Ill.; Des Moines and Sioux City, Iowa; Kansas City, Kans., Minneapolis, St. Paul, South St. Paul and Winonia, Minn.; St. Joseph and St. Louis, Mo., Omaha and Scottsbluff, Nebr.; Watertown, S. Dak., and Milwaukee, Wis., to points in Maine, New Hampshire and Vermont, and *rejected, damaged or returned shipments*, on return.

HEARING: June 20, 1960 in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 113651 (Sub No. 34), filed March 10, 1960. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 N. Broadway, Muncie, Ind. Applicant's attorney: Mario Pieroni, 523 Johnson Building, Muncie, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, packing house products and articles distributed by meat packing houses*, as defined by the Commission, (1) from Muncie, Ind., to points in Ohio and the lower Peninsula of Michigan; (2) between Muncie, Ind., on the one hand, and, on the other, points in Illinois, and Iowa; (3) between Muncie, Ind., on the one hand, and, on the other, Fort Atkinson, Milwaukee and Madison, Wis., and St. Louis, Mo.

HEARING: June 29, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 113779 (Sub No. 112), filed March 2, 1960. Applicant: YORK INTERSTATE TRUCKING, INC., 9202 La Porte Expressway, P.O. Box 12385, Houston 17, Tex. Applicant's attorney: Dale Woodall, York Interstate Trucking, Inc., 9202 La Porte Expressway, P.O. Box 12385, Houston 17, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Midland, Tex., and points within 15 miles thereof, to points in that part of Oklahoma on and west of U.S. Highway 183.

HEARING: July 19, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 16, or, if the Joint Board waives its right to participate before Examiner James H. Gaffney.

No. MC 113779 (Sub No. 119), filed March 18, 1960. Applicant: YORK INTERSTATE TRUCKING, INC., 9020 La-Porte Expressway, P.O. Box 12385, Houston 17, Tex. Applicant's attorney: Dale Woodall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid corn products*, and *blends* thereof, in bulk, in tank vehicles, from Corpus Christi, Tex., to points in Arkansas, Louisiana, and Oklahoma.

HEARING: July 20, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner James H. Gaffney.

No. MC 113779 (Sub No. 123), filed April 15, 1960. Applicant: YORK INTERSTATE TRUCKING INC., 9020 La-Porte Expressway, P.O. Box 12385, Houston 17, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohols*, in bulk, in tank vehicles, from Baton Rouge, La., to points in Alabama, Mississippi, Georgia, North Carolina, and South Carolina, when moving in mixed loads with chemicals originating at Port Neches, Tex.

HEARING: July 22, 1960, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Examiner James H. Gaffney.

No. MC 114019 (Sub No. 36) filed April 29, 1960. Applicant: THE EMERY TRANSPORTATION COMPANY, a Corporation, 7000 South Pulaski Road, Chicago 29, Ill. Applicant's attorney: Clarence D. Todd, 1825 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pepper*, in packages, in mixed shipments with salt, provided that the pepper does not exceed ten (10) per cent of the truckload weight, (1) from Akron and Cleveland, Ohio, and Manistee, St. Clair and Marysville, Mich., and points within five (5) miles of each, to points in Illinois, Indiana, Ohio, Michigan, Wisconsin, those in that part of Pennsylvania on and west of U.S. Highway 219, those in that part of New York on and west of New York Highway 14, Covington, Newport and Louisville, Ky., and St. Louis, Mo.; (2) from Rittman, Ohio, to points in Illinois, Indiana, Michigan, New York, Pennsylvania, West Virginia, points in New Jersey within the New York, New York Commercial Zone as defined by the Commission and those in New Jersey within the Philadelphia, Pa., Commercial Zone, as defined by the Commission, St. Louis, Mo., and Covington, Newport and Louisville, Ky.; (3) from Akron, Ohio, to points in West Virginia and those in Pennsylvania on and east of U.S. Highway 219, those in New York on and east of New York Highway 14, and points in New Jersey within the New York, New York Commercial Zone and points in New Jersey within the Philadelphia, Pa., Commercial Zone; and (4) from Silver Springs, N.Y., to points in Pennsylvania, West Virginia and those in New York on and south of U.S. Highway 6, and points in New Jersey within the New York, New York, Commercial Zone and points in New Jersey within the Philadelphia, Pa., Commercial Zone, and *rejected shipments* of the above-described commodities, on return.

NOTE: Applicant is authorized to conduct operations as a contract carrier in No. MC 9685 and sub numbers thereunder; a proceeding has been instituted under section 212(c) in No. MC 9685 Sub No. 58 to determine whether applicant's status is that of a contract or common carrier. Applicant states it has authority to transport salt from the above origins to the above destinations, and seeks by this application to obtain authority to transport mixed loads of salt and pepper.

HEARING: June 9, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Michael B. Driscoll.

No. MC 114211 (Sub No. 19), filed April 4, 1960. Applicant: DONALDSON TRANSFER COMPANY, a Corporation, 213 Witry Street, Waterloo, Iowa. Applicant's attorney: Charles W. Singer, 33 North La Salle Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from Kansas City, St. Joseph, Springfield, Butler, and Joplin, Mo., Omaha, Nebr., Sioux City, Des Moines, Dubuque, Cedar Rapids and Waterloo, Iowa, St. Paul, Albert Lea, and Austin, Minn., Denver, Colo., Oklahoma City, Okla., and Fort Worth, Tex., to Sheboygan, Wis., and *exempt commodities* on return.

HEARING: July 13, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 114239 (Sub No. 2), filed March 28, 1960. Applicant: GENNIE FARRIS, doing business as FARRIS TRUCK LINE, Faucett, Mo. Applicant's attorney: Carll V. Kretsinger, Suite 1014–18 Temple Building, Kansas City 6, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Urea* (dry), in bulk, and in bags, from the plant of W. R. Grace & Co. located at or near Woodstock, Tenn., approximately 6 miles northeast of Memphis on or near U.S. Highway 51, and from the W. R. Grace & Co. warehouse in Memphis, Tenn., to points in Missouri, Kansas, Nebraska, South Dakota, Iowa, Minnesota, Colorado, Arizona, California, Washington, Montana, Oregon, North Dakota, Texas, New Mexico, Wyoming, Idaho, Nevada, Utah, Oklahoma, Wisconsin, and Illinois, and *rejected* or *damaged* shipments of the above commodities, and *pallets*, on return.

NOTE: Applicant states that the proposed operation will be conducted under individual contract with W. R. Grace & Co.

HEARING: July 21, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 114486 (Sub No. 4), filed April 15, 1960. Applicant: AUTREY F. JAMES, doing business as A. F. JAMES TRUCK LINE, 2902 Lester Street, Texarkana, Tex. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt* and *Salt products*, and/or *Salt Compounds*, from Winnfield, La., and points within 10 miles thereof, to points in Arkansas, Kansas, Oklahoma, and Texas, and *empty containers* or other such incidental facilities (not specified), used in transporting the commodities specified in this application on return.

HEARING: July 19, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 115523 (Sub No. 64), filed April 7, 1960. Applicant: CLARK TANK LINES COMPANY, a Corporation, 1450 Beck Street, P.O. Box 1895, Salt Lake City 10, Utah. Applicant's attorney: Bertram S. Silver, 126 Post Street, Suite 600, San Francisco 8, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Dry fertilizer, dry fertilizer ingredients*, and *dry fertilizer compounds used in the manufacture of fertilizer*, from points in Idaho, Montana, and Washington, to points in California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; restricted on movements in bags and containers to destination points on ranches, farms, forestry service areas and unincorporated municipalities. (b) *Liquid fertilizer, fertilizer solutions* and *liquid ingredients used in the manufacture thereof, including anhydrous ammonia*, in bulk, in tank vehicles, from points in Washington east of U.S. Highway 97 to points in Idaho. *Contaminated or rejected shipments* of the commodities specified in this application, from the above-specified destination points to the above-designated origin points respectively.

HEARING: June 8, 1960, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Reece Harrison.

No. MC 116927 (Sub No. 3), filed March 24, 1960. Applicant: SPENCER EQUIPMENT COMPANY, INC., Rockport, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from St. Louis, Mo., and points in the St. Louis, Mo., Commercial Zone, as defined by the Commission, to points in Vigo, Sullivan, Knox, Posey, Gibson, Vanderburgh, Warrick, Pike, Daviess, Greene, Clay, Owen, Monroe, Lawrence, Martin, Dubois, Spencer, Perry, Crawford, Orange, Jackson, Washington, and Harrison Counties, Ind., and points in Union, Henderson, Daviess, Hancock, Webster, McLean, Ohio, and Hopkins Counties, Ky.

HEARING: June 30, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 117203 (Sub No. 1), filed April 7, 1960. Applicant: HERMAN LORENZ, doing business as NORTHBROOK GARAGE, 1891 Shermer Avenue, Northbrook, Ill., Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago 41, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles*. (1) Between points in Illinois, on the one hand, and on the other, points in Indiana, and Milwaukee, Wis. (2) Between points in Indiana and Wisconsin. (3) Between points in Illinois, on the one hand, and, on the other, points in Kentucky and Missouri.

HEARING: July 12, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 117954 (Sub No. 3), filed April 28, 1960. Applicant: H. L. HERRIN, 4634 Lancelot Drive, New Orleans, La. Applicant's attorney: Harold R. Ainsworth, 2307 American Bank Building, New Orleans 12, La. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Gulfport, Miss., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

HEARING: June 22, 1960, at the Federal Office Building, 600 South Street, New Orleans, La., before Examiner Henry A. Cockrum.

No. MC 117983 (Sub No. 2), filed April 25, 1960. Applicant: JOSEPH W. TAYLOR, doing business as TAYLOR'S TRANSFER, Ridge, Md. Applicant's attorney: Francis W. McInerny, 1625 K Street NW., Washington 6, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products* and *meat byproducts, dairy products* and *articles* distributed by meat-packing houses, as defined by the Commission in Appendix 1, in descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in vehicles equipped with temperature control devices, from Washington, D.C., to points in Anne Arundel County, Md.

NOTE: Applicant states the proposed operation will be for Swift & Company.

HEARING: June 14, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Joint Board No. 68.

No. MC 118159 (Sub No. 2), filed April 29, 1960. Applicant: EVERETT LOWRANCE, 101 Airline Highway, New Orleans, La. Applicant's attorney: Harold R. Ainsworth, 2307 American Bank Building, New Orleans 12, La. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Gulfport, Miss. to points in Alabama, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

HEARING: June 22, 1960, at the Federal Office Building, 600 South Street, New Orleans, La., before Examiner Henry A. Cockrum.

No. MC 118971 (Sub No. 3), filed January 11, 1960. Applicant: EKLUND BROTHERS TRANSPORT, INC., Watford City, N. Dak. Applicant's attorney: R. W. Wheeler, Suite 33 Woolworth Building, Bismarck, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude petroleum*, between points in North Dakota on or west of State Highway No. 3.

HEARING: July 18, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Joint Board No. 300, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 119024 (Sub No. 2) filed February 24, 1960. Applicant: J. E. B. BOONE, 418 Esperson Building, Houston 2, Tex. Applicant's attorney: James D. Smullen, Gulf Building, Houston 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Crude oil*, for further movement by rail, from Trinity (or Kittrell) Oil Field, Houston County, Tex., to Trinity, Tex., approximately eleven miles from Trinity (or Kittrell) Oil Field in Houston County, Tex., over Texas Farm to Market Road 1893 and Texas Highway 45, to Trinity, Tex., serving no intermediate or off-route points, and *empty containers or other such incidental facilities* (not specified) on return.

HEARING: July 19, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Texas, before Joint Board No. 77, or, if the Joint Board waives its right to participate before Examiner James H. Gaffney.

No. MC 119158 (Sub No. 7), filed March 4, 1960. Applicant: WALTER GARRETT, 2316 Main Street, Miles City, Mont. Applicant's attorney: Alan Foss, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *animal feeds and feed ingredients*, from Savage and Minneapolis, Minn., to points in North Dakota, South Dakota, Wisconsin, Iowa, Nebraska, Montana, and Wyoming.

HEARING: June 13, 1960, in Room 926 Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner James O'D. Moran.

No. MC 119226 (Sub No. 17), filed March 24, 1960. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, Ind. Applicant's attorney: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *contract or common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, varnishes, lacquers*, and *thinners*, in bulk, in tank vehicles, from Indianapolis, Ind., to points in Arkansas, with

no transportation for compensation on return except as otherwise authorized.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, in No. MC 108678 (Sub No. 21).

HEARING: July 1, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner James O'D. Moran.

No. MC 119331 (Sub No. 1), filed February 15, 1960. Applicant: RAYMOND C. FILZEN, 326 North Jefferson, New Ulm, Minn. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul 14, Minn. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Pre-cast concrete blocks, slabs, ornamental fixtures, tile, culverts,* and *other manufactured pre-cast concrete products,* from New Ulm, Minn., to points in Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin, and *pallets, pads, braces* and *forms* used in the transportation of outbound commodities, on return.

HEARING: June 13, 1960, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner James O'D. Moran.

No. MC 119355 (Sub No. 1), filed March 31, 1960. Applicant: EARL R. KENNEDY, doing business as EARL R. KENNEDY TRUCKING, Route No. 2, Derby, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Burned clay products,* from the plant site of Cloud Ceramics, located approximately 7 miles southeast of Concordia, Kans., to points in Missouri (except St. Louis and East St. Louis Commercial Zone), Colorado, and Oklahoma.

HEARING: July 20, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 119373, filed December 21, 1959. Applicant: LEE ROUNDY, Anthony, Kans. Applicant's attorney: J. Wm. Townsend, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry fertilizer,* in bulk, and in sacks, from Houston and Texas City, Tex., to points in Woodard, Woods, Alfalfa, Grant, Garfield, Kay and Major Counties, Okla.; and points in Harper, Barber, Pratt, Comanche, Kiowa, Kingman, Sumner, Cowley, and Reno Counties, Kans., and *empty containers or other such incidental facilities, exempt agricultural* and *horticultural commodities,* used in transporting the above-described commodities, on return.

HEARING: July 28, 1960, at the Hotel Lassen, Wichita, Kans., before Joint Board No. 170, or, if the Joint Board waives its right to participate, before Examiner Isadore Freidson.

No. MC 119373 (Sub No. 1), filed December 21, 1959. Applicant: LEE ROUNDY, Anthony, Kans. Applicant's attorney: J. Wm. Townsend, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Processed mill feeds* and *feed ingredients,* in bulk, and in sacks, (1) from Waco, Temple, Thorndale, and Hamlin, Tex., to points in Woodward, Woods, Alfalfa, Grant, Garfield, Kay, and Major Counties, Okla., and those in Harper, Barber, Pratt, Comanche, Kiowa, Kingman, Sumner, Cowley, and Reno Counties, Kans., (2) from West Memphis, Forrest City, Little Rock, Newport, Morrilton, Van Buren, and Fort Smith, Ark., to points in Harper, Barber, Pratt, Comanche, Kiowa, Kingman, Sumner, Cowley and Reno Counties, Kans., and those in Woodward, Woods, Alfalfa, Grant, Garfield, Kay, and Major Counties, Okla., (3) from points in Reno and Kingman Counties, Kans., to points in Arkansas, and those in Woodward, Woods, Alfalfa, Grant, Garfield, Kay, and Major Counties, Okla., and (4) *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, and *agricultural and horticultural commodities,* from the respective destination points to the respective origin points, as specified above.

NOTE: Applicant states on return trips exempt agricultural and horticultural commodities will also be transported.

HEARING: July 28, 1960, at the Hotel Lassen, Wichita, Kans., before Examiner Isadore Freidson.

No. 119392 (Sub No. 1), filed March 14, 1960. Applicant: HERMAN ALLEN, GENE E. ALLEN AND JOHN A. ALLEN, doing business as ALLEN'S CORNER GARAGE AND TOWING SERVICE, Route 1, Box 210, Hampshire, Ill. Applicant's representative: Thomas P. Scanlan, 111 W. Washington Street, Chicago 2, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Replacement tires, automobiles and freight vehicles, or parts thereof,* by wrecker or tow truck; *wrecked or disabled buses,* between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

HEARING: June 23, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner James O'D. Moran.

No. MC 119425, filed March 9, 1960. Applicant: HERBERT SPINDLER, doing business as HERB SPINDLER CO., 2000 Miller Trunk Highway, Duluth, Minn. Applicant's attorney: David S. Bouschor, 917 Torrey Building, Duluth 2, Minn. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Construction contractor trailers, mobile homes,* and *house trailers,* excluding freight trailers, in secondary movement in driveaway service, between points in that portion of Minnesota north of the southern boundaries of Pine, Kanabec, Mille Lacs, Morrison, Todd; Douglas, Grant, and Traverse Counties, points in that portion of Wisconsin on and north of the southern boundaries of Douglas, Bayfield, Ashland, Vilas, Burnett, Washburn, and Marinette Counties, and points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except points in Alaska and Hawaii); and *mobile homes,* and *house trailers,* in initial movement in driveaway service, from points of manufacture in Elkhart, Ind., Marlette, Mich., Americus, Ga., and Great Bend, Kans., to points in St. Louis County, Minn.

HEARING: June 15, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner James O'D. Moran.

No. MC 119497 (Sub No. 1), filed February 18, 1960. Applicant: D. A. WINTERS, 256 North Emporia, Wichita, Kans. Applicant's attorney: John A. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* in bottles and containers, excluding bulk movements, in tank vehicles, between points in Kentucky, St. Louis, Mo., Cincinnati, Ohio, and Lawrenceburg, Ind. on the one hand, and, on the other, points in Kansas. Also, *Flour,* in bags and containers, from Hutchinson, Kans., to points in Kentucky.

HEARING: July 25, 1960, at the Hotel Lassen, Wichita, Kans., before Examiner Isadore Freidson.

No. MC 119534 (Correction), filed February 25, 1960, published in the FEDERAL REGISTER, issue of May 4, 1960. Applicant: THOMAS W. STALLEY, doing business as TOM STALLEY TRUCKING COMPANY, 825 East Sioux Street, Pierre, S. Dak. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Farm machinery implements,* set up, *livestock and poultry feeds,* in bags, and *petroleum products* in containers, from points in Minnesota, Nebraska, Iowa, Missouri, and Kansas, to points in Perkins, Haakon, Hughes, Dewey, Ziebach, Stanley, and Sully Counties, S. Dak., and *exempt commodities* under section 203(b)(6), on return.

NOTE: The purpose of this republication is to designate the correct place of hearing as Pierre, S. Dak., erroneously shown in previous publication as Plette, S. Dak.

HEARING: June 13, 1960, at the South Dakota Public Utilities Commission, Pierre, S. Dak., before Examiner Leo M. Pellerzi.

No. MC 119604, filed March 21, 1960. Applicant: WILLIS E. SEARS, Jasper, Tex. Applicant's attorney: Joe G. Fender, Melrose Building, Houston 2, Tex. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Door louvres, decorative door inserts and door panels, louvre boards, sashes, plywood, materials and router kits,* including an electric motor not exceeding 2½ horsepower used in the construction of such louvres, inserts and panels, from Jasper, Tex., to Chattanooga, Tenn., Hammond, Ind., Linden, N.J., Seattle, Wash., Los Angeles, Calif., and Jacksonville, Fla.; (2) *rough hardwood* and *rough pine lumber,* from Jasper, Tex., to points in Louisiana; (3) *rough sawed air-dried lumber,* from points in Washington and Oregon, to Jasper, Tex.; and (4) *glass,* from Henrietta, Okla., Fort Smith, Ark., and Shreveport, La., to Jasper, Tex.

HEARING: July 18, 1960, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Examiner James H. Gaffney.

No. MC 119633, filed March 30, 1960. Applicant: RAYMOND J. FILLIPI, doing business as FILLIPI TRUCK LINE, Warren, Minn. Applicant's attorney: Lee F. Brooks, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* in bags, from Duluth, Minn., to points in that part of North Dakota on and north of U.S. Highway 2 and on and east of North Dakota Highway 20, and Minot and Aneta, N. Dak.

NOTE: Applicant holds common carrier authority in Certificate No. MC 27368 issued in the name of Bob Fillipi and Raymond Fillipi, doing business as Fillipi Brothers. Dual operations under section 210, and common control may be involved.

HEARING: July 25, 1960, at the U.S. Court Rooms, Fargo, N. Dak., before Joint Board No. 24, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 119636, filed March 30, 1960. Applicant: DON McQUEEN, Faucett, Mo. Applicant's attorney: Carll V. Kretsinger, 1014–18 Temple Building, Kansas City 6, Mo. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Animal and poultry feed,* in bulk, in bags or packages, (1) from St. Joseph, Mo., to points in Anderson, Atchison, Brown, Chase, Coffey, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Morris, Nemaha, Pottawatomie, Riley, Shawnee, Wabaunsee, and Wyandotte Counties, Kans. (2) From St. Joseph, Mo., to points in Cass, Johnson, Nemaha, Otoe, Pawnee, and Richardson Counties, Nebr. (3) From St. Joseph, Mo., to points in Adams, Appanoose, Decatur, Fremont, Mills, Montgomery, Page, Ringgold, Taylor, Union, and Wayne Counties, Iowa. *Damaged and rejected shipments* of the commodities specified in this application, from the above-specified destination points to St. Joseph, Mo.

HEARING: July 22, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Isadore Freidson.

No. MC 119673, filed April 15, 1960. Applicant: LOUIS SCEPANIAK, Holdingford, Minn. Applicant's attorney: F. W. Russell, 16 Third Avenue North, Cold Spring, Minn. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Dairy storage tanks,* and *rejected, damaged, or traded-in dairy storage tanks,* between Holdingford, Minn., on the one hand, and, on the other, points in Wisconsin, Illinois, North Dakota, South Dakota, Nebraska, and Iowa.

NOTE: Applicant indicates he proposes to transport rejected, damaged, or traded-in dairy storage tanks on return movements.

HEARING: July 13, 1960, in Room 926, Metropolitan Building, Second Avenue South and Third, Minneapolis, Minn., before Examiner Lyle C. Farmer.

No. MC 119699, filed April 22, 1960. Applicant: DORSEY OWINGS, R.F.D. No. 4, Ellicott City, Md. Applicant's attorney: Francis J. Ortman, 1366 National Press Building, Washington 4, D.C. Authority sought to operate as a *common or contract carrier,* by motor vehicle, over irregular routes, transporting: *Corrugated* and *fiber boxes,* from Baltimore, Md. to Washington, D.C., and points in Lehigh, Northampton, Franklin, Chester, Lancaster, Dauphin, Adams, Berks, and York Counties, Pa., and New Castle County, Del.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier. In No. 1713 (Sub–No. 10).

HEARING: June 10, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James A. McKiel.

No. 119708, filed April 25, 1960. Applicant: ROBERT E. BAWDEN, doing business as ARROW WAREHOUSE AND TRANSFER CO., P.O. Box 1032, Tahoe Valley, Calif. Applicant's attorney: Robert L. McDonald, Gazette Building, Reno, Nev. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Uncrated household goods* and *office furniture,* and *store furniture,* as defined by the Commission, between points in El Dorado and Placer Counties, Calif., and points in Douglas, Washoe, Ormsby, and Lyon Counties, Nev.

HEARING: May 26, 1960, at the Nevada Public Service Commission, Carson City, Nev., before Joint Board No. 78, or, if the Joint Board waives its right to participate, before Examiner J. Thomas Schneider.

MOTOR CARRIER OF PASSENGERS

No. MC-115116 (Sub No. 7), filed April 25, 1960. Applicant: SUBURBAN TRANSIT CORP., 750 Somerset Street, New Brunswick, N.J. Applicant's attorney: James F. X. O'Brien, 17 Academy Street, Newark 2, N.J. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage,* and *express* and *newspapers,* in the same vehicle with passengers, between North Brunswick, N.J., and East Brunswick, N.J., from junction U.S. Highway 1 and North Main Street in North Brunswick over North Main Street to its junction with Washington Avenue, in Milltown, N.J., thence over Washington Avenue to its junction with Ryders Lane, thence over Ryders Lane to its junction with Sullivan Way, in East Brunswick, N.J., thence over Sullivan Way to Gage Road to its junction with Westons Mill Road and Manor Place, thence over Westons Mill Road to its junction with Naricon Place, thence over Naricon Place to its junction with New Jersey Highway 18, a point on applicant's presently authorized route. Return from junction New Jersey Turnpike and Access Road to New Jersey Highway 18 in East Brunswick, N.J., with right of joinder at said point with applicant's presently authorized route, thence over Access Road to junction New Jersey Highway 18, thence over New Jersey Highway 18 to its junction with Manor Place, thence over Manor Place to its junction with Gage Road, thence continuing over the above described route from junction Gage Road and Manor Place to junction U.S. Highway 1 and North Main Street, in North Brunswick, N.J. Serving all intermediate points on the above described routes.

HEARING: May 27, 1960, in Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 22300 (Sub No. 14), filed May 2, 1960. Applicant: LEATHAM BROTHERS, INC., 1160 North Beck Street, Salt Lake City, Utah. Applicant's attorney: Harry D. Pugsley, Continental Bank Building, Salt Lake City 1, Utah. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Pepper,* ground and unground, in mixed shipments with salt and salt products, but not to exceed ten per cent of the total weight of each shipment, from Saltair, Utah to points in Idaho, Wyoming, Montana, Oregon, and Washington, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return.

NOTE: Applicant states it already holds authority to transport salt and salt products from Saltair into the five States and shipper desires to send packaged pepper along with truckload shipments of salt.

NOTE: Dual operations under section 210 and common control may be involved. A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 22300 (Sub No. 7).

No. MC 29555 (Sub No. 33), (REPUBLICATION), filed November 9, 1959, published in the FEDERAL REGISTER, issue of December 23, 1959. Applicant: BRIGGS TRANSPORTATION CO., a Corporation, 2360 West County Road C, St. Paul 13, Minn. Authority sought to operate as a *common carrier,* by motor vehicle, over a regular route, transporting: *General commodities,* except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment except those requiring temperature control, and those injurious or contaminating to other lading, between Hudson, Wis., and Eau Claire, Wis., over U.S. Highway 94, serving the intermediate point of Menomonie, Wis.

NOTE: Previous publication stated that applicant proposed service over the above route, serving no intermediate points, as an alternate route for operating convenience only, in error. The purpose of this republication is to state that applicant proposes service over the above route, serving the intermediate point of Menomonie, Wis.

No. MC 66562 (Sub No. 1668), filed April 28, 1960. Applicant: RAILWAY

EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorneys: Mehaffy, Smith & Williams, Boyle Building, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Classes A and B explosives*, moving in express service, between Forrest City, Ark., and Helena, Ark., from Forrest City over Arkansas Highway 1 to junction Arkansas Highway 20, thence over Arkansas Highway 20 to Helena, and return over the same route, serving the intermediate point of Marianna, Ark. The application indicates the service to be performed by applicant will be limited to such as is auxiliary to, or supplemental of, rail or air express service. Shipments shall be limited to those moving on a through bill of lading or express receipt, covering in addition to a motor carrier movement by said carrier, an immediately prior or immediately subsequent movement by air or rail.

No. MC 66562 (Sub No. 1669), filed April 28, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: Robert C. Boozer, Railway Express Agency, Incorporated, Southern Region, Suite 1220, The Citizens & National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Classes A and B explosives*, but not including commodities in bulk, moving in express service, between Mooresville, N.C., and Taylorsville, N.C., from Mooresville over North Carolina Highway 115 to Statesville, N.C., thence over North Carolina Highway 90 to Taylorsville, and return over the same route, serving the intermediate points of Charlotte and Stony Point, N.C. RESTRICTIONS: 1. The service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, air or rail express service of applicant. 2. Shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt covering, in addition to a motor carrier movement by applicant, an immediately prior or immediately subsequent movement by air or rail. 3. Such further specific conditions as the Commission may, in the future, find necessary to impose in order to restrict applicant's operations to service which is auxiliary to, or supplemental of, air or rail express service of applicant.

NOTE: Applicant states the proposed service is to be in connection with applicant's present service between Charlotte and Mooresville, N.C., under MC 66562 (Sub No. 1100).

No. MC 66562 (Sub No. 1672), filed May 3, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Classes A and B explosives*, moving in express service, between Bridgeport, Conn., and Pittsfield, Mass., from Bridgeport over Connecticut Highway 25 to Newtown, Conn., thence over U.S. Highway 6 to Danbury, Conn., thence over U.S. Highway 7 to Pittsfield, and return over the same route, serving the intermediate points of Newtown, Danbury, New Milford, Kent, Canaan, Conn., and Great Barrington, Lee and Lenox, Mass. The application indicates the service to be performed will be limited to that which is auxiliary to or supplemental of express service, and the shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt.

No. MC 95743 (Sub-No. 19), filed May 3, 1960. Applicant: WILLIAM FREDERICK MEHRING, doing business as WILLIAM F. MEHRING, Keymar, Md. Applicant's representative: Donald E. Freeman, Uniontown Road, Box 24, Westminster, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural* and *Industrial lime*, in bulk, and in bags to the extent set out below: (1) *Agricultural lime*, in bags, in truckloads, from Woodsboro, Md., to Richmond, Va., and (2) *Agricultural* and *industrial lime*, in bulk, in hopper equipment, from Woodsboro, Md., to points in Virginia.

No. 100080 (Sub No. 2), filed April 27, 1960. Applicant: OLIVER M. ELAM, JR., 2433 Central Avenue, Ashland, Ky. Applicant's attorney: Chas. T. Dodrill, 600 Fifth Avenue, Huntington, W. Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel* and *road building materials and supplies*, usually transported by dump truck, between points in Ohio, and West Virginia within 50 miles of Parksburg, W. Va.

No. MC 102616 (Sub No. 690), filed April 27, 1960. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil* (edible), in bulk, in tank vehicles, on shipments having prior movement by rail, from Reading, Pa., to Baltimore, Md.

NOTE: Duplication with present authority to be eliminated.

No. MC 107496 (Sub No. 162), filed April 28, 1960. Applicant: RUAN TRANSPORT CORPORATION, 408 Southeast 30th Street, Des Moines, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt emulsion*, in bulk, in tank vehicles, from Michigan City, Ind., to points in Michigan, other than points in Oceana, Newaygo, Mecosta, Isabella, Midland, Saginaw, Gratiot, Montcalm, Kent, Muskegon, Ottawa, Ionia, Clinton, Shiawassee, Livingston, Ingham, Eaton, Barry, Allegan, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Lenawee, Hillsdale, Branch, St. Joseph, Cass, and Berrien Counties, Mich.

No. MC 112474 (Sub No. 3), filed April 28, 1960. Applicant: WALTER ROWAN, Allen Street Extension, P.O. Box 502, Jamestown, N.Y. Applicant's attorney: William C. Arrison, Bank of Jamestown Building, Jamestown, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, (1) from points in Livingston County, N.Y., to points in Clarion, Forest, Jefferson, Elk, Cameron, Clinton, and Tioga Counties, Pa.; and (2) from points in Schuyler and Tompkins Counties, N.Y., to points in Erie, Crawford, Mercer, Venango, Warren, McKean, Potter, Clairon, Forest, Jefferson, Elk, Cameron, Clinton, and Tioga Counties, Pa.

No. MC 117850 (Sub No. 4), filed April 26, 1960. Applicant: J. B. KENNEDY, Brookfield, Mo. Applicant's representative: Henry B. Vess, Jr., 216 East 10th Street, Kansas City 6, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed*, from Mason City, Ill., to points in Linn, Chariton, Sullivan, and Grundy Counties, Mo., and *damaged or rejected shipments* of dry feed, on return.

No. MC 119680, filed April 18, 1960. Applicant: DELAWARE VALLEY TRUCKING COMPANY, INC., 15 Exchange Place, Jersey City, N.J. Applicant's representative: G. Donald Bullock, 211 East 51st Street, Apt. 10–C, New York 22, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk, milk products*, and *fruit juices*, in containers, in refrigerated equipment, from Camden, N.J., to Levittown, Pa., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, on return.

No. MC 119718, filed April 29, 1960. Applicant: CLEO McDANIEL, 403 Northwest Third, Bethany, Okla. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Filter tanks, filter sand* and *gravel, reinforcing steel, pipe, valves, plumbing supplies and fittings, fencing; swimming pool equipment—diving boards and stands, ladders, lights, sweepers, safety equipment, chemicals, small construction tools and supplies*, and *materials used in construction of shipper's product*, between Oklahoma City, Okla., and points in Kansas, Texas, Missouri, Indiana, Illinois, Colorado, New Mexico, Iowa, Tennessee, Louisiana, Kentucky, and Nebraska.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub No. 186) filed April 29, 1960. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago, Ill. Applicant's attorney: Raymond H. Warns, 140 South Dearborn Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express, newspapers* and *mail* in the same vehicle with passengers, between Dublin, Va., and Junction Virginia Highways 100 and 99: from

Dublin over Virginia Highway 100 to junction with Virginia Highway 99, and return over the same route, serving all intermediate points.

NOTE: Applicant states it proposes to join or tack the proposed authority, if granted, with its present authority over Virginia Highway 100 at junction with Virginia Highway 99 to Dublin, Va.

No. MC 1501 (Sub No. 187), filed May 2, 1960. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago, Ill. Applicant's attorney: Peter K. Nevitt, Room 1500, 140 South Dearborn Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express, newspapers* and *mail* in the same vehicle with passengers, between junction U.S. Highway 23 and Kentucky Highway 3, approximately two (2) miles south of Catlettsburg, Ky., and junction U.S. Highway 23 and Kentucky Highway 3, approximately two (2) miles north of Louisa, Ky.: from junction U.S. Highway 23 and Kentucky Highway 3 two miles south of Catlettsburg, over Kentucky Highway 3 to its junction with U.S. Highway 23, two miles north of Louisa, and return over the same route, serving all intermediate points.

NOTE: Applicant states it proposes to join or tack this authority, if granted, to its present authority at junction U.S. Highway 23 and Kentucky Highway 3 two miles south of Catlettsburg, Ky., and at junction U.S. Highway 23 and Kentucky Highway 3 two miles north of Louisa.

No. MC 1501 (Sub No. 188), filed May 2, 1960. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago, Ill. Applicant's attorney: Peter K. Nevitt, Room 1500, 140 South Dearborn Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express, newspapers* and *mail* in the same vehicle with passengers, between Cocoa, Fla., and junction Florida Highway 520 and Florida Highway 50 near Bithlo, Fla.: from Cocoa over Florida Highway 520 to its junction with Florida Highway 50 near Bithlo, and return over the same route, serving all intermediate points.

NOTE: Applicant states it proposes to join or tack this authority, if granted, to its present authority at Cocoa, and at the junction of Florida Highway 50 near Bithlo.

No. MC 1501 (Sub No. 189), filed May 2, 1960. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Peter K. Nevitt, Room 1500, 140 South Dearborn Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express, newspapers* and *mail* in the same vehicle with passengers between St. Petersburg, Fla., and Daytona Beach, Fla.: from St. Petersburg over Interstate Highway No. 4 to Daytona Beach, and return over the same route, serving all intermediate points and the off-route points of Plant City, Sanford, and Deland, Fla.

NOTE: Applicant states it proposes to join or tack this authority, if granted, to its present authority at St. Petersburg and at Daytona Beach.

No. 3700 (Sub No. 43), filed April 27, 1960. Applicant: MANHATTAN TRANSIT COMPANY, U.S. 46, East Paterson, N.J. Applicant's attorney: Robert E. Goldstein, 24 West 40th Street, New York 18, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip special operations, with no pickup or discharge of passengers enroute, and restricted to authorized racing season of each year of said raceways, beginning and ending at Bloomfield, N.J., and extending to Delaware Park Race Track, Stanton, Del., Pimlico Race Track, Baltimore, Md., Laurel Race Track, Laurel, Md., and Bowie Race Track, Bowie, Md.

No. MC 111978 (Sub No. 5), filed April 26, 1960. Applicant: EDWARD DAVIS, doing business as BLACK & WHITE TRANSIT COMPANY, Grundy, Va. Applicant's attorney: John C. Goddin, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *mail, newspapers* and *express* in the same vehicle with passengers, between Pikeville, Ky., and Jenkins, Ky.: from Pikeville over U.S. Highway 23 to Jenkins, and return over the same route, serving all intermediate points.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 7520. Authority sought for control by CHARLES W. OWEN, 1141 Caspian Street, Long Beach 13, Calif., of IMPERIAL VAN & STORAGE, INC., 1530 West 12th Street, Long Beach 13, Calif., and CITY TRANSFER, INC., 1141 Caspian Street, Long Beach 13, Calif. Applicant's attorney: R. Y. Schureman, 639 South Spring Street, Los Angeles 14, Calif. Operating rights sought to be controlled: (IMPERIAL) *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, between Los Angeles, Los Angeles Harbor and Long Beach, Calif., on the one hand, and, on the other, points in Los Angeles County, Calif.; (CITY) Operations under the Second Proviso of section 206(a)(1) of the Interstate Commerce Act covering the transportation of *general commodities*, with certain exceptions, as a *common carrier* over a regular route in the State of California. The exceptions and route are more specifically described in Docket No. MC 96697. CHARLES W. OWEN holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7521. Authority sought for purchase by HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Marietta, Ga., of a portion of the operating rights of CHATTANOOGA TRANSFER AND STORAGE COMPANY, 2200 North Chamberlain Avenue, Chattanooga, Tenn., and for acquisition by JIMMIE H. AYER, also of Marietta, of control of such rights through the purchase. Applicants' attorneys: Allan Watkins and Paul M. Daniell, both of 214 Grant Building, Atlanta 3, Ga. Operating rights sought to be transferred: *Machinery, equipment*, and *supplies*, used in the maintenance and operation of industrial plants, as a *common carrier* over irregular routes, between Chattanooga, Tenn., and points within 175 miles of Chattanooga. Vendee is authorized to operate as a *common carrier* in Georgia, Alabama, Tennessee, North Carolina, South Carolina, Kansas, Arkansas, Illinois, West Virginia, Delaware, Missouri, Oklahoma, Pennsylvania, Nebraska, Iowa, Indiana, Kentucky, Ohio, Virginia, Texas, Michigan, Massachusetts, Florida, Louisiana, Mississippi, New Jersey, New York, Wisconsin, Minnesota, Maryland, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7522. Authority sought for purchase by FOGARTY BROS. TRANSFER, INC., 1103 Cumberland Avenue, Tampa, Fla., of a portion of the operating rights of RALPH DeCOSTA SHAW, doing business as SEABOARD VAN LINES, 3624 Nichols Avenue SE., Washington, D.C., and for acquisition by J. E. FOGARTY and JERRY E. FOGARTY, both of Tampa, of control of such rights through the purchase. Applicants' attorney: Donald Cross, 919 Munsey Building, Washington 4, D.C. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in North Carolina, South Carolina, Georgia and Virginia, except points within 40 miles of the District of Columbia. Vendee is authorized to operate as a *common carrier* in Florida, Georgia, Alabama, Tennessee, Kentucky, Nebraska, Ohio, Indiana, Illinois, South Carolina, North Carolina, Vermont, Virginia, West Virginia, Maryland, Pennsylvania, Delaware, Texas, Wisconsin, New Jersey, New York, Connecticut, Iowa, Rhode Island, Arkansas, Kansas, Louisiana, Maryland, Massachusetts, Oklahoma, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7523. Authority sought for control by ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York 2, N.Y., of KEYSTONE MOTOR EXPRESS, INC., 2412 Collis Avenue, P.O. Box 5497, Huntington 3, W. Va. Applicant's attorneys: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio, and Mortimer A. Sullivan, Walbridge Building, Buffalo 2, N.Y. Operating rights sought

to be controlled: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes between Pittsburgh, Pa., and Huntington, W. Va., between Sutton, W. Va., and Charleston, W. Va., between Washington, Pa., and Wooster, Ohio, between Lisbon, Ohio, and Norwalk, Ohio, between Strasburg, Ohio, and Cleveland, Ohio, between Norwalk, Ohio, and Wheeling, W. Va., between Charleston, W. Va., and Weirton, W. Va., between Charleston, W. Va., and Ronceverte, W. Va., and from Charleston, W. Va., to Cincinnati, Ohio, serving certain intermediate and off-route points; *general commodities,* excepting, among others, household goods but not excepting commodities in bulk, between Charleston, W. Va., and Cleveland, Ohio, between Uhrichsville, Ohio, and Canton, Ohio, between Bedford, Ohio, and Cleveland, Ohio, between Dover, Ohio, and Canton, Ohio, and from Cadiz, Ohio, to Wheeling, W. Va., serving all intermediate and certain off-route points; *gas cylinders and rubber tires,* from Cincinnati, Ohio, to Charleston, W. Va., serving the intermediate points of Portsmouth and Ironton, Ohio, and Huntington, W. Va. RESTRICTION: Service to and from West Virginia points authorized is restricted against the transportation of traffic interchanged with LYONS TRANSPORTATION CO. (MC 109564), at points in Erie, Crawford, Mercer, and Venango Counties, Pa., when such traffic is moving to or from New York, N.Y., and points in Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester Counties, N.Y. ASSOCIATED TRANSPORT, INC., is authorized to operate as a *common carrier* in Georgia, South Carolina, North Carolina, Virginia, Tennessee, New York, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Ohio and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7524. Authority sought for purchase by D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero 50, Ill., of a portion of the operating rights of SPROUT & DAVIS, INC., 2500 Indianapolis Boulevard, Whiting, Ind., and for acquisition by ROBERT L. WHYTE, 9001 South Utica Avenue, Evergreen Park, Ill., DUDLEY D. MALONE, 197 May Street, Elmhurst, Ill., and ALFONSE V. SEHRIG, 105 Stonegate Road, La Grange Park, Ill., of control of such rights through the purchase. Applicant's attorney: Eugene L. Cohn, One North LaSalle Street, Chicago 2, Ill. Operating rights sought to be transferred: *Petroleum and petroleum products,* in bulk, in tank vehicles, as a *common carrier* over irregular routes, between Whiting, Ind., on the one hand, and, on the other, certain points in Illinois, points in the ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE and Hannibal, Mo., and certain points in Iowa, between East Chicago, Ind., on the one hand, and, on the other, certain points in Illinois, and from Whiting, Ind., to certain points in Wisconsin; *petroleum and petroleum products, except liquefied petroleum gas,* in bulk, in tank vehicles, from points in the CHICAGO, ILL., COMMERCIAL ZONE and Lemont, Ill., to certain points in Michigan, from East Chicago, Ind., to certain points in Illinois and Iowa, and points in the ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE and Hannibal, Mo., and from points in Illinois located in the CHICAGO, ILL., COMMERCIAL ZONE, to points in Indiana; *petroleum and petroleum products, in bulk, in tank vehicles, except liquefied petroleum gas, and except petroleum asphalt, tar, road oil, and residual fuel oil requiring heater-coil tank vehicles,* from points in the CHICAGO, ILL., COMMERCIAL ZONE and Lemont, Ill., to certain points in Wisconsin; *wax, petrolatum, lubricating oils, and white oil, in bulk,* in tank vehicles, from Chicago, Ill., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Wisconsin, Ohio, Kansas, Oklahoma, Nebraska, and Kentucky; *asphalt and road oils,* in bulk, in tank vehicles equipped with heating devices designed to control the viscosity of the commodities during transit, from Chicago, Ill., to points in Wisconsin. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–7525. Authority sought for purchase by BEND-PORTLAND TRUCK SERVICE, INC., 1321 S.E. Water Ave., Portland 14, Oreg., of the operating rights and property of ARROW TRANSIT, INC., 819 Broad Street, Klamath Falls, Oreg., and for acquisition by WILFRED JOSSY, also of Portland, of control of such rights and property through the purchase. Applicants' attorney: Owen M. Panner, 1026 Bond Street, Bend, Oreg. Operating rights sought to be transferred: *General commodities,* except liquid petroleum products, in bulk, in tank trucks, as a *common carrier,* over a regular route, between Klamath Falls, Oreg., and Lakeview, Oreg., serving to and from all points on the above-specified route, or within 1 mile thereof, and those located within four miles of the corporate limits of Klamath Falls, and to and from the off-route points of Bonanza and West Side, Oreg. Vendee is authorized to operate as a *common carrier* in Oregon. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–4238; Filed, May 10, 1960; 8:49 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 6, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36215: *Phosphate rock—Florida Mines to Prairie Du Chien, Wis.* Filed by O. W. South, Jr., Agent (SFA No. A3944), for interested rail carriers. Rates on phosphate rock, crude (other than ground phosphate rock, slush and floats (refuse and washings from phosphate rock), and soft phosphate), in covered hopper cars, in carloads from Bartow, Fla., and points taking Bartow rates to Prairie du Chien, Wis.

Grounds for relief: Rail-barge competition.

Tariff: Supplement 156 to Southern Freight Association tariff I.C.C. 1514. (Spaninger series).

FSA No. 36216: *Toluene and xylene between and from points in southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–7783), for interested rail carriers. Rates on toluene (toluol) and xylene (xylol), in tank-car loads from points in Arkansas, Kansas, Illinois, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, also Memphis, Tenn., to points in southwestern, midcontinent, and western trunk line, including Illinois territories.

Grounds for relief: Competition with and relationship to benzene.

Tariffs: Supplement 277 to Southwestern Freight Bureau tariff I.C.C. 4086, and other schedules named in the application.

FSA No. 36217: *Methanol—Military, Kans., to Chicago, Ill.* Filed by Western Trunk Line Committee, Agent (No. A–2128), for interested rail carriers. Rates on methanol, in tank-car loads from Military, Kans., to Chicago, Ill., and points in switching district.

Grounds for relief: Market competition with Sterlington, La.

Tariff: Supplement 234 to Western Trunk Line Committee tariff I.C.C. A–3991.

FSA No. 36219: *Paper and paper articles to Highland Park, Iowa.* Filed by Western Trunk Line Committee, Agent (No. A–2133), for interested rail carriers. Rates on paper and paper articles, in carloads from points in Michigan, Minnesota, Wisconsin, and Canada to Highland Park, Iowa.

Grounds of relief: Relocation of plant and grouping.

Tariff: Supplement 114 to Western Trunk Line Committee tariff I.C.C. A–4082.

AGGREGATE-OF-INTERMEDIATES

FSA No. 36218: *Methanol—Military, Kans., to Chicago, Ill.* Filed by Western Trunk Line Committee, Agent (No. A–2199), for interested rail carriers. Rates on methanol, in tankcar loads from Military, Kans., to Chicago, Ill., and points in switching district.

Grounds for relief: Maintenance of proposed rates without requiring their use as factors in constructing combination rates lower than present through one-factor rates from or to points beyond the considered points.

Tariff: Supplement 234 to Western Trunk Line Committee tariff I.C.C. A–3991.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–4236; Filed, May 10, 1960; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-018595, C-021859]

COLORADO

Order Providing for Opening of Public Lands

1. Pursuant to authority delegated to me by the Colorado State Supervisor, Bureau of Land Management, effective February 19, 1958 (23 F.R. 1098), the following described lands reconveyed to the United States in exchanges of land made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended, are hereby restored to disposition under the applicable public land laws as hereinafter indicated:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 38 N., R. 12 E.,
Sec. 35, NW¼.

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 15 S., R. 97 W.,
Sec. 20, S½SE¼;
Sec. 21, S½;
Sec. 22, SW¼NW¼ and NW¼SW¼.

The areas described above total 640 acres of public land.

2. The land in T. 38 N., R. 12 E. is in Alamosa County in south central Colorado. The arid climate supports only desert shrubs. The land in T. 15 S., R. 97 W., is in Delta County in western Colorado. The low rainfall and shallow soil support small juniper trees, sagebrush, grasses, and weeds. None of the land is suitable for agriculture.

3. Minerals in the land in T. 38 N., R. 12 E., N.M.P.M., have been reserved by third parties. Leasable and locatable minerals in the lands in T. 15 S., R. 97 W., 6th P.M., are vested in the United States and have been open to mineral leasing and mining location at all times.

4. No application for these lands will be allowed under the homestead, desert land, small tract, or any other non-mineral public land law, unless the lands have aready been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any existing valid rights and the requirements of applicable law, the lands described above are hereby opened to filing of applications and selections in accordance with the following:

a. Applications and selections under the non-mineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the non-mineral public land laws, other than those coming under paragraph (1) above, presented prior to 10:00 a.m., June 8, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

7. Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, 371 New Custom House, P.O. Box 1018, Denver 1, Colorado.

J. ELLIOTT HALL,
Lands and Minerals Officer.

MAY 3, 1960.

[F.R. Doc. 60-4213; Filed, May 10, 1960; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Dockets No. 2472, etc.]

BOISE VALLEY LIVESTOCK COMMISSION CO. ET AL.

Notice of Orders Extending Period of Suspension of Modifications of Rates and Charges

On April 1, 1960, orders were issued instituting the following proceedings under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.):

In re Cattleman's Livestock Auction, Inc., Nampa, Idaho, Respondent, P. & S. Docket No. 2472 (25 F.R. 3479);

In re C. C. Sawyer and James A. Goodhue, d/b/a Emmett Livestock Commission, Emmett, Idaho, Respondents, P. & S. Docket No. 2475 (25 F.R. 3480);

In re H. S. Davis and Cecil McIndoo, d/b/a Davis Livestock Auction, Caldwell, Idaho, Respondents, P. & S. Docket No. 2476 (25 F.R. 3481);

In re Boise Valley Livestock Commission Company, Caldwell and Nampa, Idaho, Respondent, P. & S. Docket No. 2477 (25 F.R. 3482);

In re F. Norman Sitz and Rodney E. McCullough, d/b/a Weiser Livestock Commission Company, Weiser, Idaho, Respondents, P. & S. Docket No. 2478 (25 F.R. 3482);

In re Morgan G. Beck, et al., d/b/a Ontario Livestock Commission Company, Ontario, Oregon, Respondents, P. & S. Docket No. 2479 (25 F.R. 3483);

In re Hardy Ward and Aden R. Wheeler, d/b/a Meridian Sale Yard, Meridian, Idaho, Respondents, P. & S. Docket No. 2480 (25 F.R. 3484).

Such orders, among other things, suspended and deferred the operation and use by the respondents of modifications of their current schedules of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, for a period of thirty days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearings in these proceedings cannot be concluded within such period of suspension, an order was issued in each of the above proceedings on April 29, 1960, suspending and deferring the operation and use of such modifications of the respective current schedule of rates and charges for a further period of thirty days beyond the date when such modifications would otherwise become effective.

Done at Washington, D.C., this 5th day of May 1960.

DAVID M. PETTUS,
Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-4250; Filed, May 10, 1960; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 881]

GENERAL INCREASES IN ALASKAN RATES AND CHARGES

Notice of Supplemental Order

On April 25, 1960, the Federal Maritime Board entered the following second supplemental order to the original order, as amended, in this proceeding, dated January 7, 1960, appearing in the FEDERAL REGISTER of January 15, 1960 (25 F.R. 364).

It appearing that by the Original Order, as amended, in Docket No. 881 served January 8, 1960, the Board instituted an investigation into and concerning the reasonableness of the rates, charges, rules, regulations and practices stated in certain schedules between Pacific Coast ports on the one hand, and ports and points in Alaska on the other; and

It further appearing that said Original Order provides in part that "no change shall be made in the rates or other matters which were changed by said tariff schedules, until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board;" and

It further appearing that on April 15, 1960, Alaska Northern Express, Inc., filed Application No. 2 seeking authority to publish, post and file, on ten days' notice, a consecutively numbered revised page to F.M.B.-F. No. 1 in order to establish a 30,000 pound minimum weight resulting in a reduced rate applicable to Refrigerated Fruits and Vegetables and Other Articles.

It further appearing that the Board having found good cause therefore has on April 25, 1960, granted special permission to publish such change on not less than 10 days' notice under Special Permission No. 3830;

It is ordered, That the Original Order herein is modified to the extent neces-

sary to permit publication and filing of the change covered by such Special Permission No. 3830; and

It is further ordered, That any rates, charges, regulations and practices set forth in the schedule filed pursuant to such special permission shall be subject to the investigation and hearing herein to the same extent as the rates, charges, regulations and practices under schedule cancelled thereby, and that the special permission granted hereby shall be without prejudice to the Board's determination as to the lawfulness of the rates established pursuant hereto; and

It is further ordered, That copies of this Order shall be filed with said tariff schedule in the Office of the Federal Maritime Board, and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents and protestants herein; and that this Order be published in the FEDERAL REGISTER.

Dated: May 6, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4243; Filed, May 10, 1960; 8:50 a.m.]

[Docket No. 901]

GENERAL INCREASES IN RATES; PACIFIC-ATLANTIC GUAM TRADE

Notice of Supplemental Order

On April 28, 1960, the Federal Maritime Board entered the following third supplemental order to the original order, as amended, in this proceeding, dated March 21, 1960, appearing in the FEDERAL REGISTER of April 1, 1960 (25 F.R. 2780).

It appearing that by Original Order and First Supplement Order herein, the Board ordered suspended in full to and including April 29, 1960, Pacific Far East Line, Inc., Guam Freight Tariff No. 2, F.M.B.-F. No. 2 and American President Lines, Ltd., Pacific/Guam Tariff No. 5, F.M.B.-F. No. 9 and Atlantic/Guam Freight Tariff No. 3, F.M.B.-F. No. 8; and

It further appearing that the aforementioned carriers have agreed (1) to keep account of all freight moneys received by reason of the increased rates provided in such schedules commencing with the effective date of said schedules and terminating on the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations, and practices stated in said schedules; and (2) to refund to the person who paid the freight, upon proper authorization by the Board, any freight charges collected under said schedules during the said period which may be in excess of those determined by the Board to be just and reasonable;

It is ordered that the aforementioned carriers shall (1) keep an account of all freight moneys received by reason of the increases in rates provided in said schedules commencing with the effective date of said schedules and terminating with the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations and practices set forth in said schedules; and (2) that such carriers, upon proper authorization by the Board, shall refund to the person who paid the freight, any freight charges collected under said schedules during the said period, which may be in excess of those determined by the Board to be just and reasonable and otherwise lawful; and

It is further ordered, That no change shall be made in the rates or other matters which were changed by said tariff schedules until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board; and

It is further ordered, That copies of this Order shall be forthwith served upon all protestants and respondents herein, and that this Order shall be published in the FEDERAL REGISTER.

Dated: May 6, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4244; Filed, May 10, 1960; 8:50 a.m.]

[Docket No. 903]

PACIFIC COAST; PUERTO RICO GENERAL INCREASE IN RATES

Notice of Supplemental Order

On April 28, 1960, the Federal Maritime Board entered the following first supplemental order to the original order, in the proceeding, dated April 19, 1960, appearing in the FEDERAL REGISTER of April 30, 1960 (25 F.R. 3827).

It appearing that on April 19, 1960, the Board ordered suspended to and including August 17, 1960, and directed that there be instituted an investigation and hearing in this proceeding of the reasonableness and lawfulness of tariff schedules setting forth new increased rates and charges, and new rules, regulations and practices affecting such rates and charges, from U.S. Pacific Coast ports on the one hand to ports in Puerto Rico on the other, published to become effective April 20, 1960, designated as follows:

Loose-leaf revised pages (or designated items) as specified in the original order herein, to Pacific Coast-Puerto Rican Conference Tariff No. 1-D, Agent C. R. Nickerson, F.M.B.-F. No. 4; and

Loose-leaf revised pages (or designated items) as specified in the original order herein, to Isbrandtsen Company, Inc., U.S. Pacific West Coast to Puerto Rico Tariff No. 2, F.M.B.-F. No. 2; and

It further appearing that said Order provides, in part, that "neither the schedules hereby suspended nor those sought to be altered thereby may be changed until this investigation and suspension proceeding has been disposed of or until the period of suspension has expired, unless otherwise authorized by the Board;" and

It further appearing that on April 20, 1960, Isbrandtsen Company, Inc., filed application for special permission seeking authority to publish, post and file, on not less than one day's notice, consecutively numbered revised loose-leaf pages as specified in Appendix A below, to F.M.B.-F. No. 2 in order to cancel appropriate pages and to increase by 10 percent the rates named in the currently effective pages in the same series; and

It further appearing that on April 25, 1960, Pacific Coast-Puerto Rican Conference filed Application No. 34, seeking authority to publish, post and file, on not less than one day's notice, consecutively numbered revised loose-leaf pages (or designated items) specified in Appendix B below, to Agent C. R. Nickerson, F.M.B.-F. No. 4, in order to cancel appropriate pages (or designated items) and to increase by 10 percent the rates named in the currently effective pages (or designated items) in the same series; and

It further appearing that the Board having found good cause therefor has on April 28, 1960, granted special permission to publish such changes on not less than one day's notice, under Special Permission No. 3831 in the case of Isbrandtsen Company, Inc., and Special Permission No. 3832 in the case of Pacific Coast-Puerto Rican Conference; and

It further appearing that Isbrandtsen Company, Inc.; Bay Cities Transportation Company; Pan Atlantic Steamship Corporation; Pope and Talbot, Inc.; and Waterman Steamship Corporation (Puerto Rican Division) have agreed (1) to keep account of all freight moneys received by reason of the increased rates provided in such schedules commencing with the effective date of said schedules and terminating on the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations and practices stated in said schedules; and (2) to refund to the person who paid the freight, upon proper authorization by the Board, any freight charges collected under said schedules during the said period which may be in excess of those determined by the Board to be just and reasonable;

It is ordered, That the Original Order herein be modified to the extent necessary to permit the publication and filing of the changes covered by such Special Permission Nos. 3831 and 3832; and

It is further ordered, That this proceeding be expanded to include an investigation into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in said schedules, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant; and

It is further ordered, That Isbrandtsen Company, Inc., and Pacific Coast-Puerto Rican Conference; namely: Bay Cities Transportation Company; Pan Atlantic Steamship Corporation; Pope and Talbot, Inc.; and Waterman Steamship Corporation shall, (1) keep an account of all freight moneys received by reason of the 10 percent increase in rates provided in such schedules commencing with

the effective date of said schedules and terminating with the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations and practices set forth in said schedules; and (2) that such carriers, upon final determination by the Board, shall refund to the person who paid the freight, any freight charges collected under said schedules during the said period which may be in excess of those determined by the Board to be just and reasonable and otherwise lawful; and

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said schedules and of all other freight schedules of the carriers named herein in effect from Pacific Coast ports to Puerto Rico, under the Shipping Act of 1916, as amended, and the Intercoastal Shipping Act of 1933, as amended; and

It is further ordered, That copies of this order shall be filed with said tariff schedules in the office of the Federal Maritime Board; and

It is further ordered, That a copy of this order shall be forthwith served upon Isbrandtsen Company, Inc., Bay Cities Transportation Company, Pan Atlantic Steamship Corporation, Pope and Talbot, Inc., and Waterman Steamship Corporation (Puerto Rican Division), and that said carriers be made respondents in this proceeding; and that respondents and protestants be duly notified of the time and place of the hearing under the Original Order in this proceeding and that this order be published in the FEDERAL REGISTER.

Dated: May 6, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

APPENDIX A

Isbrandtsen Company, Inc., U.S. Pacific West Coast to Puerto Rico Tariff No. 2, F.M.B.-F. No. 2 as follows:

5th Revised Page 37.
17th Revised Page 38.
5th Revised Page 39.
18th Revised Page 40.
7th Revised Page 41.
5th Revised Page 42.
5th Revised Page 43.
6th Revised Page 44.
5th Revised Page 45.
17th Revised Page 46.
5th Revised Page 47.
5th Revised Page 48.
6th Revised Page 49.
6th Revised Page 50.
15th Revised Page 51.
11th Revised Page 52.
7th Revised Page 53.
7th Revised Page 54.
6th Revised Page 55.
5th Revised Page 56.
5th Revised Page 57.
6th Revised Page 58.

APPENDIX B

Pacific Coast-Puerto Rican Conference Tariff No. 1-D, Agent C. R. Nickerson, F.M.B.-F. No. 4, as follows:

Item 110 of 4th Revised Page 19.
Item 200 of 7th Revised Page 22.
9th Revised Page 39.
19th Revised Page 40.
15th Revised Page 41.
30th Revised Page 42.
13th Revised Page 43.
12th Revised Page 44.
11th Revised Page 45.
9th Revised Page 46.
9th Revised Page 47.
24th Revised Page 48.
14th Revised Page 49.
18th Revised Page 50.
9th Revised Page 51.
10th Revised Page 52.
34th Revised Page 53.
15th Revised Page 54.
8th Revised Page 55.
10th Revised Page 56.
14th Revised Page 57.
10th Revised Page 58.
8th Revised Page 59.
10th Revised Page 60.

[F.R. Doc. 60-4245; Filed, May 10, 1960; 8:50 a.m.]

[Docket No. S-60 (Sub No. 2)]

ISBRANDTSEN CO., INC.

Notice of Hearing

Notice is hereby given that a public hearing will be held on an application filed by Isbrandtsen Company, Inc., for a waiver, to the extent required by the provisions of section 804 of the Merchant Marine Act, 1936, as amended, to permit the continuance of the below-described foreign-flag activities by an associated company, in the event the Federal Maritime Board awards an operating-differential subsidy to Isbrandtsen Company, Inc., under section 601 of said Act:

The ownership by Mr. Jakob Isbrandtsen, President and a Director of Isbrandtsen Company, Inc., of approximately 42 per cent of the outstanding common stock of Canadian Foreign Steamship Company Limited, which company has under long-term bareboat charter, three Dutch-flag combination ore/tanker vessels of approximately 26,500 d.w.t. each. These vessels are employed primarily in the carriage of iron ore in bulk from Chilean ports to ports in the United States and Canada, and from time to time, in the carriage of oil in bulk from Caribbean ports to ports in Peru and Chile. In addition, the Canadian Foreign Steamship Company Limited employs other foreign-flag vessels, on occasion, on time or voyage charters for the carriage of bulk ore from Chile to the United States, Canada and other foreign destinations.

The purpose of the hearing is to receive evidence relevant to, and whether and to what extent, the provisions of section 804 apply to the above-described activities and if so, whether special circumstances and good cause exist so as to justify a waiver of the provisions of this section.

The hearing will be before Examiner C. B. Gray, in Room 4519 General Accounting Office Building, Washington, D.C., beginning at 10 o'clock a.m., May 25, 1960.

No briefs will be permitted, but any party will be permitted to offer oral argument before the Presiding Officer at the close of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in the proceeding, must file notification thereof with the Secretary, Federal Maritime Board, Washington 25, D.C., in writing in triplicate by the close of business on May 20, 1960.

Dated: May 6, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4246; Filed, May 10, 1960; 8:51 a.m.]

[Docket No. 869]

PACIFIC COAST-HAWAII AND ATLANTIC/GULF-HAWAII; GENERAL INCREASES IN RATES

Notice of Supplemental Order

Notice is hereby given that the Federal Maritime Board has entered, on April 28, 1960, the following Thirtieth Supplemental Order to the original order in this proceeding, dated September 10, 1959, which appeared in the FEDERAL REGISTER of September 23, 1959 (24 F.R. 7656):

Thirtieth supplemental order. It appearing that by the Original Order (as amended), in Docket 869 served September 11, 1959, the Board instituted an investigation into and concerning the reasonableness and lawfulness of the rates, charges, regulations and practices stated in certain schedules between Pacific Coast ports and Hawaii as well as between Atlantic and Gulf ports and Hawaii; and

It further appearing that said Original Order, as amended January 7, 1960, provides in part that no change shall be made in rates or other matters which were changed by said tariff schedules, until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board; and

It further appearing that on April 7, 1960, Atlantic and Gulf/Hawaii Conference filed Application No. 17 seeking authority to publish, post and file, on 30 days' notice, certain consecutively numbered revised pages to FMB-F No. 20 in order to make the following changes therein:

1. Add Item No. 2021 naming a Group A and Group B rate of $29.00 per ton, W/M on "Wood Pulp, Sulphite, in Rolls."

2. Add Item No. 1954 naming a Group A and Group B rate of $31.00 per ton, W/M on "Wadding, Cellulose, N.O.S."

3. Change the commodity description on Item 560 to read "Cotton or Rayon Piece Goods and Cotton or Rayon Goods, N.O.S., including Cotton and Rayon Mixtures. Pad Covering, Sanitary."

Change the Commodity description on Item No. 505 to read:

4. "Measurement not to exceed 75 cu. ft. per 2,000 lbs. Wt. Measurement exceeding 75 cu. ft. per 2,000 lbs. but not exceeding 100 cu. ft. per 2,000 lbs. Wt. Measurement exceeding 100 cu. ft. per 2,000 lbs. W/M"; and

It further appearing that the Board having found good cause therefor has on April 28, 1960, granted special permission to publish such changes on 30 days' notice under Special Permission No. 3828; such special permission to be without prejudice to the right of the Board to suspend such schedule within the notice period, either upon receipt of protest thereto or upon its own motion,

It is ordered, That the Original Order herein is modified to the extent necessary to permit the publication and filing of the changes covered by such Special Permission No. 3828; and

It is further ordered, That copies of this Order shall be filed with said tariff schedules in the Office of the Federal Maritime Board; and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents herein, and upon all protestants herein; and that this order be published in the FEDERAL REGISTER.

Dated: May 6, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4247; Filed, May 10, 1960; 8:51 a.m.]

Office of the Secretary

GEORGE E. LAWRENCE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of April 30, 1960.

Dated: April 30, 1960.

GEORGE E. LAWRENCE.

[F.R. Doc. 60-4235; Filed, May 10, 1960; 8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE—MAY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during May.